

ADMINISTRATIVE PANEL DECISION

Sardegna resorts S.r.l. - società unipersonale v. Nanci Nette
Case No. D2024-0694

1. The Parties

The Complainant is Sardegna resorts S.r.l. - società unipersonale, Italy, represented by GriffeShield S.r.l., Italy.

The Respondent is Nanci Nette, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <hotelromazzino.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 14, 2024. On February 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 15, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 20, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 14, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on March 18, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The following facts are undisputed.

The Complainant is a subsidiary company of Smeralda Holding Group and it is owned by the Qatar's sovereign wealth fund, Qia (Qatar Investments Authority), which exercises indirect control over it. Its core business is the management of hotels, restaurants, bars, as well as commercial establishments, such as golf clubs. In addition, the main activity of the Complainant is the purchase, construction, sale and lease of property and real estate.

The Complainant carries out the business of real estate management and development in the northeast of Sardinia (Italy). The Complainant owns, in fact, Land Holding Co S.r.l. (a company having as its core business activities in the field of real estate), as well as the luxury hotels Romazzino, Cala di Volpe (therein including Pevero Golf Club), Pitrizza and Hotel Cervo, and controls Marina di Porto Cervo S.r.l. (owner since 2012 of beachfront real estate and land along the northeast coast of Sardinia) and Cantiere di Porto Cervo S.r.l. (company engaged in the management of tourist ports, maritime works of any kind and general, and shipping yards).

The Complainant's Hotel Romazzino is one of the most exclusive hotels in Sardinia; it was designed in 1965 by the architect Michele Busiri Vici. Between 2011 and 2013 Hotel Romazzino has expanded and it added 6 villas with private pool to its collection.

The Complainant owns several trademark registrations in relation the word mark HOTEL ROMAZZINO, including, but not limited, to the European Union trademark HOTEL ROMAZZINO (word mark) with registration number 013463666, registered on June 25, 2015, for goods and services in classes: 3, 5, 8, 14, 16, 17, 18, 21, 27, 28, 33, 41, 43, 44 and 45.

The disputed domain name was registered on July 19, 2018. At the time of filing the Complainant and at the time of rendering this decision, the disputed domain name resolved to a parked page with pay-per-click ("PPC") links, referring to inter alia hotels.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends the following.

The disputed domain name resolves to a webpage displaying several sponsored links, which generate revenues, through the PPC system, to the Respondent. It is clear that these links compete and capitalize on the reputation and goodwill of the Complainant's trademarks, being some of them related to the Complainant's commercial field.

The Complainant's trademark is a famous trademark among its specific commercial field and for the public. This circumstance makes it extremely disingenuous for the Respondent to claim that it was unaware that the registration of the disputed domain name would violate the Complainant's rights.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

The Panel also notes that the composition of the disputed domain name, which reproduces the Complainant's mark in its entirety without the addition of any other elements, carries a high risk of affiliation with the Complainant.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel finds that, on a balance of probabilities, the Respondent must have been aware of the Complainant and its mark at the time of registering the disputed domain name. The Panel takes into account that the exact name of the hotel the Complainant owns is reflected in the disputed domain name, and the Complainant has also provided sufficient substantiation of the notoriety of this hotel. The Respondent has also not rebutted the Complainant's contentions in this respect or come forward with any explanation for the registration and use of the disputed domain name.

The use of the disputed domain name to provide PPC links to competing hotels, is sufficient evidence of use of the disputed domain name in bad faith. Hence, the Panel finds that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location (see under paragraph 4(b)(iv) of the Policy).

Lastly, the Panel notes that the Respondent, as substantiated by the Complainant, has engaged in a pattern of such conduct (see under paragraph 4(b)(ii) of the Policy).

The Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <hotelromazzino.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: March 29, 2024