

ADMINISTRATIVE PANEL DECISION

IIC-INTERSPORT International Corporation GmbH v. Liu Fen
Case No. DCO2022-0113

1. The Parties

Complainant is IIC-INTERSPORT International Corporation GmbH, Switzerland, represented by Nameshield, France.

Respondent is Liu Fen, China.

2. The Domain Name and Registrar

The disputed domain name <intersportrent.co> 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 December 7, 2022. On December 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 9, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on December 15, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 15, 2022.

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 Respondent of the Complaint, and the proceedings commenced on December 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 11, 2023.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on January 18, 2023. 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

Complainant is owner of registrations for the word, and word and design, trademark INTERSPORT, including (but not limited to), as an International Trademark under the Madrid System: word registration number 210606, registration dated June 16, 1958, in international classes (ICs) 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27 and 28, covering a wide range of goods relating to sporting and outdoor activities, with a substantial number of designations predominantly (but not exclusively) in Europe, and; word and design registration number 441202, registration dated September 21, 1978, in ICs 9, 12, 14, 18, 22, 24, 25, 26 and 28, covering a range of sporting equipment, with a substantial number of designations principally (though not exclusively) in Europe (in certain cases limiting the classes of goods covered). Complainant also is owner of registrations for the word and design trademark INTERSPORT RENT, including registration at the European Union Intellectual Property Office (EUIPO) as a European Union Trade Mark (EUTM), registration number 003286598, registration dated February 1, 2005, in ICs 41 and 45, covering renting of sporting equipment and sportswear, and; as an International Trademark, registration number 807232, registration dated July 10, 2003, in ICs 41 and 45, covering rental of sports equipment and sportswear, designating a substantial number of countries, principally in Europe (including certain limitations).

Complainant is a multinational operator of sporting goods retail stores, with over 5,000 stores operating in 42 countries, with turnover of EUR 12 billion in 2021. According to information provided by Complainant, each INTERSPORT retail store is independently owned and run, and Complainant is providing products and support services to the independent retailers.¹ Some, but not all, of the retailers associated with Complainant operate their retail stores under the INTERSPORT trademark. Complainant also provides rental services for sporting equipment, principally for skiing/snowboarding. It appears that rental services are often provided under the INTERSPORT RENT trademark (including online). Complainant operates a commercial websites at <intersport.com> and <intersportrent.com>.

According to the Registrar's verification, Respondent is registrant of the disputed domain name. According to that verification, the record of registration for the disputed domain name was created on November 23, 2022. There is no indication in the record of this proceeding that any party other than Respondent has owned or controlled the disputed domain name since its registration.

Complainant provided evidence that Respondent listed the disputed domain name for sale on "dan.com" for a price of USD 1450. There is no evidence of other use by Respondent of the disputed domain name.

5. Parties' Contentions

A. Complainant

Complainant alleges that it has rights in the INTERSPORT and INTERSPORT RENT trademarks and that the disputed domain name is identical to its INTERSPORT RENT trademark.

Complainant contends that Respondent has no rights or legitimate interests in the disputed domain name because: (1) Respondent is not known as or by the disputed domain name; (2) Respondent is not affiliated with Complainant in any way, nor is it authorized by Complainant to make any use of its trademarks, including in the disputed domain name; (3) Respondent's general offer to sell the disputed domain name evidences Respondent's lack of rights or legitimate interests.

Complainant argues that Respondent registered and is using the disputed domain name in bad faith because: (1) Complainant's trademarks are well-known and distinctive; (2) Complainant's INTERSPORT trademark is "fictitious"; (3) Respondent has offered the disputed domain name for sale at a price in excess

¹ The Complaint describes Complainant and its business in a single sentence, with attached webpage annexes that provide limited information about the structure of Complainant's business operation.

of its out-of-pocket costs, and without any evidence of active use.

Complainant requests the Panel to direct the Registrar to transfer the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

The registration agreement between Respondent and the Registrar subjects Respondent to dispute settlement under the Policy. The Policy requires that domain name registrants submit to a mandatory administrative proceeding conducted by an approved dispute resolution service provider, one of which is the Center, regarding allegations of abusive domain name registration and use (Policy, paragraph 4(a)).

It is essential to UDRP proceedings that fundamental due process requirements be met. Such requirements include that a respondent have notice of proceedings that may substantially affect its rights. The Policy and the Rules establish procedures intended to ensure that respondents are given adequate notice of proceedings commenced against them and a reasonable opportunity to respond (see, *e.g.*, Rules, paragraph 2(a)).

The Center formally notified the Complaint to Respondent at the email and physical address provided in its record of registration. Courier delivery was unsuccessful because of inaccurate contact information in Respondent's record of registration. There is no indication of problems with the transmission of email to Respondent. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief. These elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights;
- (ii) respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Each of the aforesaid three elements must be proved by a complainant to warrant relief.

A. Identical or Confusingly Similar

Complainant has provided evidence of rights in the trademark INTERSPORT, including by registration as an International Trademark and through use in commerce. Complainant has provided evidence of rights in the word and design trademark INTERSPORT RENT, including by registration at the EUIPO as an EUTM and as an International Trademark under the Madrid System, and by use in commerce. Respondent has not challenged Complainant's assertion of trademark rights. The Panel determines that Complainant has established rights in the trademarks INTERSPORT and INTERSPORT RENT.

The disputed domain name directly and fully incorporates Complainant's INTERSPORT RENT trademark, adding only the country code Top-Level Domain (ccTLD) ".co". The direct and full incorporation of Complainant's trademark in the disputed domain name is sufficient to establish that the disputed domain

name is identical to Complainant's trademark within the meaning of the Policy.²

The Panel determines that Complainant has established rights in the trademarks INTERSPORT and INTERSPORT RENT, and that the disputed domain name is identical to Complainant's INTERSPORT RENT trademark.

B. Rights or Legitimate Interests

Complainant's allegations to support Respondent's lack of rights or legitimate interests in the disputed domain name are outlined above, and the Panel finds that Complainant has made a *prima facie* showing that Respondent lacks rights or legitimate interests in the disputed domain name.

Respondent has not replied to the Complaint and has not attempted to rebut Complainant's *prima facie* showing of lack of rights or legitimate interests.

There is no evidence that Respondent has used the disputed domain name other than to offer it for sale. Use by Respondent of the disputed domain name in a manner that evidences bad faith (see 6C below) does not establish rights or legitimate interests in the disputed domain name.

There is no evidence that Respondent has been commonly known by the disputed domain name, or that it has established any trademark rights in INTERSPORT or INTERSPORT RENTS, or in the disputed domain name.

Respondent has not attempted to justify registration and use of the disputed domain name for some legitimate purpose.

The Panel determines that Complainant has established that Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

In order to prevail under the Policy, Complainant must demonstrate that the disputed domain name "has been registered and is being used in bad faith" (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy states that "for the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith". These include: "(i) circumstances indicating that [the respondent] has registered or [the respondent has] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the domain name."

Complainant's trademarks are in wide use around the world. A simple Google search of the term "intersport" generates results that prominently identify Complainant's trademarks and businesses. Although Complainant's trademarks combine commonly used linguistic elements in the English language (*i.e.* "inter", "sport" and "rent"), in combination they are sufficiently distinctive to be recognizable in connection with Complainant. It is improbable that Respondent registered the disputed domain name without knowledge of Complainant and its trademarks given their wide use, including on the Internet. Respondent has not provided some alternative explanation to justify its decision to choose Complainant's trademark terms for the disputed domain name.

² Under the circumstances here, the Panel does not consider that Complainant's registration of the INTERSPORT RENT trademark as a word and design mark is material to its assessment. Complainant uses the INTERSPORT RENT trademark in its word-only form, and it is known under that word-only form.

Respondent has offered the disputed domain name for sale at a price substantially in excess of the normal or ordinary cost of registering a domain name, and it has not provided any evidence of other documented out-of-pocket costs in relation to it. The evidence strongly suggests that Respondent registered the disputed domain name for the purpose of selling it to Complainant or a third party, and that by doing so has sought to take unfair advantage of Complainant's goodwill in its trademarks. There is no countervailing evidence on the record of this proceeding.

The Panel determines that Respondent registered and is using the disputed domain name in bad faith within the meaning of paragraph 4(b)(i) of the Policy.

The Panel will direct the Registrar to transfer the disputed domain name to Complainant.

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 <intersportrent.co> be transferred to Complainant.

/Frederick M. Abbott/

Frederick M. Abbott

Sole Panelist

Date: February 1, 2023