

ADMINISTRATIVE PANEL DECISION

BolognaFiere Cosmoprof S.p.A. v. Hamidreza Ahmadi Ashtiani
Case No. DCO2023-0046

1. The Parties

The Complainant is BolognaFiere Cosmoprof S.p.A., Italy, represented by Nunziante Magrone Studio legale Associato, Italy.

The Respondent is Hamidreza Ahmadi Ashtiani, Tajikistan.

2. The Domain Name and Registrar

The disputed domain name <cosmoprof.co> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 4, 2023. On May 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 8, 2023, 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 (Redacted for Privacy), and contact information in the Complaint. The Center sent an email communication to the Complainant on May 10, 2023 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 amendment to the Complaint on May 11, 2023.

The Center verified that the Complaint together with the amendment to the 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 May 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2023. The Respondent did not submit any formal Response. However, the Respondent sent informal email communications to the Center on May 24, and June 13, 2023. The Center sent Commencement of Panel Appointment Process email on June 12, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on June 20, 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

The Complainant is a company registered in Italy. It is an organizer of trade fairs dedicated to the beauty and cosmetics industry.

The Complainant is the owner of numerous trademark registrations comprising or including the mark COSMOPROF, including for example European Union Trade Mark registration number 001050483 for the word mark COSMOPROF, registered on January 12, 2001 in International Classes 35, 41 and 42.

The Complainant operates an official website at “www.cosmoprof.com”.

The disputed domain name was registered on March 9, 2022.

The Complainant exhibits evidence that the disputed domain name has resolved to a website headed “COSMOPROF” with sub-headings “BEST PRODUCTS”, “HAIR”, “SKIN”, “MEDIA ROOM” and “INFO”. The website goes on to state: “COSMOPROF® is one of the specialized brands of VESTAPHARMA® company”.

5. Parties’ Contentions

A. Complainant

The Complainant submits that it has operated for over 50 years and that its COSMOPROF trade fairs have become the most important in the world in the beauty and cosmetics industry. It states that it operates five branded shows and 25 international beauty events involving over 10,000 exhibitors from 190 countries. It also provides evidence of a significant presence on social media. The Complainant submits that its COSMOPROF trademark has become a well-known trademark worldwide as a result of these matters.

The Complainant submits that the disputed domain name is identical to its COSMOPROF trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its COSMOPROF trademark, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant submits that the mere registration of a domain name that is identical to a well-known trademark raises a presumption of bad faith. It adds that the Respondent’s use of the disputed domain name makes clear its intention misleadingly to attract Internet users to its website by causing confusion with the Complainant’s COSMOPROF mark (paragraph 4(b)(iv) of the Policy). The Complainant submits that it is clear from the website, albeit under construction, that the Respondent intends to sell cosmetic and body care products of the same nature as exhibited at the Complainant’s trade fairs, including night cream, rejuvenating cream, purify boost toner, hair therapy and other products. The Complainant adds that the Respondent’s website uses the same layout and colour shades as the Complainant’s own website. It adds that the Respondent’s claimed association with the company “Vestapharma” is also deliberately misleading.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not file a formal Response in the proceeding. Its first informal email referred to above

had no substantive content and its second informal email stated: "According to Your Previous Note We Mention that Claim is Not Valid."

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the 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.

A. Identical or Confusingly Similar

The Complainant has demonstrated that it has registered trademark rights in the mark COSMOPROF. The disputed domain name is identical to that trademark and the Panel therefore finds that the first element under paragraph 4(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a formal Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The Panel finds, for the reasons set out below, that the Respondent registered and has used the disputed domain name dishonestly to target the Complainant's COSMOPROF trademark and the commercial goodwill attaching to it. The Panel finds accordingly that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant has established to the satisfaction of the Panel that its trademark COSMOPROF is distinctive and widely recognised as an identifier of the Complainant's services in the beauty and cosmetics sector. The Respondent has offered no explanation for its registration of the disputed domain name and has used the disputed domain name for the purposes of a website relating to beauty and cosmetics products. The Panel infers in the circumstances that the Respondent registered the disputed domain name in the knowledge of the Complainant's trademark and with the intention of taking unfair commercial advantage of that trademark.

The Panel finds the disputed domain name to be inherently misleading and to represent an obvious attempt to impersonate the Complainant and its official website at "www.cosmoprof.com". In those circumstances and in view of the Respondent's use of the disputed domain name as described above, the Panel finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

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, <cosmoprof.co>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: July 4, 2023