

ADMINISTRATIVE PANEL DECISION

Salomon S.A.S. v. Web Commerce Communications Limited, Client Care and Whoisprotection.cc, Domain Admin
Case No. D2022-0807

1. The Parties

The Complainant is Salomon S.A.S., France, represented by Nameshield, France.

The Respondents are Web Commerce Communications Limited, Client Care, Malaysia and Whoisprotection.cc, Domain Admin, Malaysia.

2. The Domain Names and Registrar

The disputed domain names <salomongreeceshop.com> and <salomonshoessouthafrica.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 8, 2022. On March 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 9, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 10, 2022, providing the registrant and contact information for multiple underlying registrants disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 10, 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 the Respondents of the Complaint, and the proceedings commenced on March 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 4, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on April 5, 2022.

The Center appointed Petra Pecar as the sole panelist in this matter on April 11, 2022. 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 French outdoor sports equipment manufacturing company established in 1947. The Complainant produces products for numerous sports markets, including trail running, hiking, climbing, adventure racing, skiing, and snowboarding in over 40 countries worldwide.

The Complainant is the owner of several registered SALOMON trademarks in numerous jurisdictions worldwide, including the following:

- International Trademark Registration SALOMON No. 0375807, registered on November 24, 1970;
- International Trademark Registration SALOMON No. 0489108, registered on July 19, 1984;
- International Trademark Registration SALOMON No. 0526127, registered on March 22, 1988; and
- International Trademark Registration SALOMON No. 0940740, registered on June 8, 2007.

The Complainant also owns a number of domain names that incorporate its SALOMON mark, including <salomon.com>, registered on January 10, 1995, which resolves to the Complainant's official website.

The disputed domain name <salomongreeceshop.com> was registered on January 22, 2022, while the disputed domain name <salomonshoessouthafrica.com> was registered on May 20, 2021. According to the evidence provided by the Complainant, at the time of the submission of the Complaint, both disputed domain names resolved to a page stating, "Error 1020" and "Access denied".

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain names <salomongreeceshop.com> and <salomonshoessouthafrica.com> consist of the registered trademark SALOMON, the geographical terms "Greece" and "South Africa", and the generic terms "shop" and "shoes". The inclusion of these geographic and generic terms and the addition of the generic Top-Level Domain ("gTLD") ".com" are not sufficient to escape the finding that the disputed domain names are confusingly similar to the Complainant's trademark, nor do they change the overall impression of the designations being connected to the trademark. As a result, the disputed domain names are confusingly similar to the Complainant's registered trademark SALOMON.

The Complainant submits that the Respondents have no rights or legitimate interests in respect of the disputed domain names, nor are the Respondents in any way related to the Complainant. More specifically, the Respondents do not carry out any activity for, or conduct any business with, the Complainant, nor has the Complainant granted any licence nor authorization to the Respondents to make any use of the trademark SALOMON or to apply for registration of the disputed domain names.

Further, the Complainant submits that the disputed domain names resolve to a page stating, "Access denied". There is no indication in the record of the Respondents' use or even demonstrable preparation to use the disputed domain names in connection with any legitimate interests.

Finally, the Complainant submits that it is implausible that the Respondents did not know of the Complainant's rights in the SALOMON trademark as the Complainant has sold and marketed its products for almost 75 years. This is further substantiated by the addition of the generic terms "shop" and "shoes" in the

disputed domain names, which refer to the Complainant's activity and products. As a result of the above, the Complainant contends that the disputed domain names were registered and are being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Consolidation of Proceedings

The Complaint relates to two domain names, which the Complainant wishes to have dealt with in a single administrative proceeding. Paragraph 10(e) of the Rules states that a Panel shall decide a request by a party to consolidate multiple domain name disputes in accordance with the Policy and the Rules. Further, Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), states that where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.

As an illustration, section 4.11.2 of [WIPO Overview 3.0](#) indicates that prior UDRP panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).

In the case at hand, the Complainant cited the following as reasons to support its allegation that the disputed domain names are subject to common control:

- Both domain names are registered with the same registrar;
- Both domain names are registered indicating the same city as the address of registrants;
- Both domain names are registered indicating the same phone number.

In accordance with the above, the Panel shall allow the consolidation of the proceedings for the disputed domain names <salomongreeceshop.com> and <salomonshoessouthafrica.com> given that the Panel holds that the Complainant has provided sufficient evidence that the disputed domain names are subject to common control, that the consolidation in this case would be fair and equitable to all parties (especially taking into account lack of response to the Complaint) and that the consolidation in this case would contribute to procedural efficiency. Hereinafter, the Panel will refer to the Respondents as the "Respondent".

6.2. Findings

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trade mark 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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see [WIPO Overview 3.0](#), section 1.2.1).

In the present matter, the Panel finds that the Complainant has established its rights in the SALOMON trademark based on its worldwide registrations. Such trademark rights precede the registration of the disputed domain names, which were registered on January 22, 2022 (<salomongreeceshop.com>) and May 20, 2021 (<salomonshoessouthafrica.com>).

The disputed domain names <salomongreeceshop.com> and <salomonshoessouthafrica.com> consist of the registered trademark SALOMON, the geographical terms “Greece” and “South Africa”, and the terms “shop” and “shoes”. The Complainant’s trademark is wholly incorporated within the disputed domain names, while it is well-established that additional terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) do not prevent a finding of confusing similarity, as noted in section 1.8 of the [WIPO Overview 3.0](#), and confirmed in previous decisions (see, for example, *Sanofi-Aventis, Aventis Inc. v. Searchology, Domain Registrant*, WIPO Case No. [D2007-0889](#)). Furthermore, gTLDs, such as “.com”, are typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11 of the [WIPO Overview 3.0](#)).

Taking into consideration the above, the Panel finds that the disputed domain names are confusingly similar to the Complainant’s registered trademark SALOMON. As a result, the first part of paragraph 4(a) of the Policy is therefore satisfied.

B. Rights or Legitimate Interests

Under the second element of the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence to rebut that presumption. If the respondent fails to do so, a complainant is generally deemed to have satisfied the second element, as set out in paragraph 4(a)(ii) of the Policy. (See also [WIPO Overview 3.0](#), section 2.1.).

The Complainant contends that the Respondent is not in any way related to the Complainant. Namely, the Respondent does not carry out any activity for, or conduct any business with, the Complainant, nor has the Complainant granted any licence nor authorization to the Respondent to make any use of the trademark SALOMON or to apply for registration of the disputed domain names.

Based on the evidence provided by the Complainant, the Panel finds that the Respondent has not used, or made demonstrable preparations to use, the disputed domain names in connection with a *bona fide* offering of goods or services. The Complainant has submitted evidence that the disputed domain names resolve to a website displaying an error message when accessed. While the Panel has found this is still the case regarding the disputed domain name <salomonshoessouthafrica.com>, the Panel has been able to access the website linked to the disputed domain name <salomongreeceshop.com> after bypassing the browser

security settings and notes that this website mimics the official website of the Complainant by incorporating the SALOMON trademark and generally replicating the look and feel of the Complainant's official website, including offering its products for sale.¹ It is clear that the website is intended to deceive Internet users into believing that they have arrived at the Complainant's official website for the territory of Greece, which cannot be considered a *bona fide* offering of goods and services.

The Respondent has failed to provide any evidence of authorization to use the SALOMON trademark or to register the disputed domain names containing the Complainant's trademark. Moreover, there is no indication that the Respondent is commonly known by the disputed domain names or any similar names, nor is there evidence that the Respondent is making legitimate noncommercial or fair use of the disputed domain names.

The Panel is satisfied that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names. Since the Respondent has failed to submit any evidence to the contrary, the Panel finds that the Respondent is not commonly known by the disputed domain names, nor that it has any rights or legitimate interests in the disputed domain names. It is clear that the Complainant is not in any way affiliated with the Respondent, nor is the Respondent making legitimate noncommercial or fair use of the disputed domain names.

Based on the above, the Panel finds that the second element of paragraph 4(a)(ii) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires the Complainant to demonstrate that the Respondent registered and is using the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.1, states that "bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark".

The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when, by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location by creating a likelihood of confusion with the complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

Based on the information and the evidence provided by the Complainant, the Panel finds that it is highly unlikely that the Respondent was not aware of the Complainant's SALOMON trademarks at the time of registration of the disputed domain names since such registration occurred long after the registration of the Complainant's earliest trademarks and since a trademark register search or even a simple online search prior to the registration of the disputed domain names would have informed the Respondent of the existence of the Complainant's trademarks and the Complainant's extensive use of the SALOMON trademark as a source identifier. Moreover, the construction of the disputed domain names themselves, namely the combination of the Complainant's trademark along with the geographic terms "Greece" and "South Africa", and the generic terms "shop" and "shoes", is such to imply that the Respondent was aware of the Complainant and its products. This is further confirmed by the inclusion of the Complainant's SALOMON trademark on the website linked to the disputed domain name <salomongreeceshop.com>, which is designed in a way which imitates the Complainant's official website and offers the Complainant's SALOMON products for sale.

¹ Pursuant to paragraph 10(a) of the Rules, the Panel independently visited the website associated with the disputed domain name <salomongreeceshop.com>.

The Complainant has submitted evidence that the disputed domain names resolve to a website displaying an error message when accessed. Based on the circumstances of this case, the Panel finds that the non-use of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding (see [WIPO Overview 3.0](#), section 3.3).

Moreover, the use of the disputed domain name <salomongreeceshop.com> for a website that mimics the official website of the Complainant is evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy.

When taken together with the Respondent's failure to respond to the Complaint and to explain itself in the course of these proceedings, the only reasonable inference, in the opinion of the Panel, is that the Respondent registered and is using the disputed domain names in bad faith in terms 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 names <salomongreeceshop.com> and <salomonshoessouthafrica.com> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: April 25, 2022