

ADMINISTRATIVE PANEL DECISION

Autry International S.r.l. v. Whois Agent, Domain Protection Services, Inc./Jgdfey Uget
Case No. D2022-1350

1. The Parties

The Complainant is Autry International S.r.l., Italy, represented by LEGANCE Avvocati Associati, Italy.

The Respondent is Whois Agent, Domain Protection Services, Inc., United States of America ("USA") /Jgdfey Uget, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <autrysoldes.com> (the "Domain Name") is registered with Name.com, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 14, 2022. On April 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 15, 2022 the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 19, 2022 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 April 19, 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 Respondent of the Complaint, and the proceedings commenced on April 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 11, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 17, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on May 20, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant manufactures and markets clothing, footwear and accessories worldwide under the “Autry” brand. The Complainant generated revenues of EUR 3,208,461.00 in 2020 and EUR 19,768,549.00 in 2021.

The Complainant owns various trademark registrations, such as European Union (“EU”) trademark no. 17916957 in AUTRY registered on September 25, 2018 and EU trademark no. 18295844 in AUTRY ACTION SHOES registered on December 16, 2020. The Complainant also owns domain names that include the Complainant’s trademark, e.g., <autry-usa.com>, <autryfashion.com> and <autryusa.com>, registered before the Respondent registered the Domain Name in dispute. The Complainant is present at social media such as Instagram and Facebook.

The Domain Name was registered on February 22, 2022. At the time of Complaint and the time of drafting the Decision, the Domain Name resolved to a website that appears to sell counterfeited goods. On April 6, 2022, the Complainant received an email from a customer that ordered and paid a pair of sneakers at the Respondent’s website without receiving confirmation or validation of sending.

5. Parties’ Contentions

A. Complainant

The Complainant provides evidence of trademark registrations, and argues that the Domain Name incorporates the dominant part of the Complainant’s trademark, with the additional of the word “soldes”. It does not alter or reduce the risk of confusion, as it is a descriptive French word for “sales”.

The Complainant asserts that the Respondent is not authorized to use the Complainant’s trademark. The Respondent cannot establish rights in the Domain Name, as it has not made any use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. On the contrary, the Complainant submits that the Respondent not only advertises and offers (falsely) Autry branded goods, but also uses the logos, pictures and the layout of the Complainant’s website.

Based on the fame of the Complainant’s trademark and the Respondent’s use of the Domain Name, the Complainant argues that the Respondents must have been aware of the Complainant and its trademarks when the Respondent registered the Domain Name. The use proves that the Respondent has intentionally attempted to attract Internet users, for commercial gain, by creating confusion with the Complainant’s trademark, more specifically, to lure potential targets into buying counterfeited goods.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established that it has rights in the trademark AUTRY. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name incorporates the

Complainant's trademark, with the addition of "soldes". The addition does not prevent a finding of confusing similarity between the Domain Name and the trademark.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domains ("gTLDs"), see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has made unrebutted assertions that it has not granted any authorization to the Respondent to register the Domain Name containing the Complainant's trademark or otherwise make use of the Complainant's mark. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired unregistered trademark rights. The Respondent has not made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. The Respondent's use of the Domain Name is clearly not *bona fide*, but rather evidence of bad faith.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds it evident from the use of the Domain Name that the Respondent must have been aware of the Complainant and its trademark when the Respondent registered the Domain Name. The Respondent's use also indicates an attempt to attract Internet users for commercial gain, by creating confusion with the Complainant's trademark. Based on the casefile, it seems that the Respondent has used the Domain Name to sell counterfeit goods.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) 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 Domain Name <autrysoldes.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: June 3, 2022