

ADMINISTRATIVE PANEL DECISION

SRAM, LLC v. Shutian Tang

Case No. D2022-1366

1. The Parties

The Complainant is SRAM, LLC, United States of America (“United States”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Shutian Tang, China.

2. The Domain Name and Registrar

The disputed domain name <sramoutlet.com> (the “Disputed 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 15, 2022. On April 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 2, 2022, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 10, 2022.

The Center appointed Nicholas Weston as the sole panelist in this matter on June 17, 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 United States corporation that operates a business manufacturing and selling bicycle components, with a direct presence in 10 countries. The Complainant holds a number of registrations for the trademark SRAM in numerous jurisdictions including, for example: United States Trademark Registration No. 2,056,661 for SRAM, registered on April 29, 1997.

The Complainant owns the domain name <sram.com>, created on January 4, 1996, which hosts its main website.

The Respondent registered the Disputed Domain Name on December 10, 2021. The Disputed Domain Name resolved to a website that strongly resembles the Complainant's main website, offering bicycle components for sale.

5. Parties' Contentions

A. Complainant

The Complainant cites its United States trademark No. 2,056,661 registered on April 29, 1997 and other registrations internationally for the mark SRAM as *prima facie* evidence of ownership.

The Complainant submits that "is the owner of at least 82 trademark registrations in 16 countries or geographic regions worldwide that consist of or contain the mark SRAM" and that its rights in that mark predate the Respondent's registration of the Disputed Domain Name. It submits that the Disputed Domain Name is confusingly similar to its trademark, because the Disputed Domain Name incorporates in its entirety the SRAM trademark and that the confusing similarity is not removed by the addition of the word "outlet", or the addition of the generic Top-Level Domain ("gTLD") ".com".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because it resolves to a webpage that resembles that of the Complainant in circumstances where the respondent "has no rights or legitimate interests in the Disputed Domain Name.

Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the SRAM Trademark in any manner". Further, the Complainant has supplied evidence that the Respondent is "accepting payment for but failing to deliver products" to support the contention that the "Respondent has failed to create a *bona fide* offering of goods or services under the Policy."

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and Rules. The Complainant states that the Respondent registered the Disputed Domain Name after the Complainant's SRAM trademark was widely known and that the Respondent uses the Disputed Domain Name to divert internet traffic from the Complainant's business. The Complainant contends that the Respondent's use of the Disputed Domain Name is a bad faith attempt to profit from the popularity of the Complainant's trademark. For these reasons, the Complainant asks the Panel to transfer the Disputed Domain Name.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has produced evidence to demonstrate that it has registered trademark rights in the mark SRAM in numerous jurisdictions. The propriety of a domain name registration may be questioned by comparing it to a trademark registered in any country (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.2.1).

Turning to whether the Disputed Domain Name is identical or confusingly similar to the SRAM trademark, the Panel observes that the Disputed Domain Name comprises: (a) an exact reproduction of the Complainant’s trademark SRAM; (b) followed by the word “outlet”; (c) followed by the gTLD “.com”.

It is well established that the gTLD used as technical part of a domain name may be disregarded. (See section 1.11 of the [WIPO Overview 3.0](#)). The relevant comparison to be made is with the Second-Level portion of the Disputed Domain Name, specifically: “sramoutlet.”

As the relevant mark is incorporated in its entirety and as such is recognizable in the Disputed Domain Name, in line with previous UDRP decisions, this Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s SRAM trademark for purposes of UDRP standing (see [WIPO Overview 3.0](#), section 1.7).

The Panel finds that the addition of the word “outlet” does not avoid a finding of confusing similarity between the Disputed Domain Name and the Complainant’s trademark. “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements.” (See [WIPO Overview 3.0](#), section 1.8).

The Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Name. The Policy also places the burden on the Complainant to establish the absence of the Respondent’s rights or legitimate interests in the Disputed Domain Name. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant need only put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that *prima facie* case (see [WIPO Overview 3.0](#), section 2.1).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because (i) the Disputed Domain Name resolved to a website that is very similar to the Complainant’s own; (ii) the Respondent has not acquired or owned any trademark or service mark rights in the name SRAM, and has not been commonly known by the name SRAM; and (iii) the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain to misleadingly divert consumers.

The Respondent is not using the Disputed Domain Name as a reseller with legitimate interests in a domain name incorporating a Complainant's mark, as it has provided uncontested evidence, which this Panel accepts, that the Respondent is accepting payment but not providing the goods sold via the website at the Disputed Domain Name, therefore it cannot be considered legitimate, nor would it meet the tests set out in *Okidata Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Nor, alternatively, is the Respondent commonly known by the Disputed Domain Name. The Panel accepts the Complainant's uncontested submission that "Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the SRAM Trademark in any manner".

The Panel is satisfied that the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. In the absence of a response, this Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The Panel finds for the Complainant on the second element of the Policy.

C. Registered and Used in Bad Faith

The third element of the Policy requires that the complainant must also demonstrate is that the disputed domain name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both of these conjunctive requirements.

The Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, this Panel infers from the content of the website, including the use of the Complainant's layout, products and trademark, that the Respondent was well aware that its registration of the Disputed Domain Name would be identical or confusingly similar to the Complainant's trademark (see: *SRAM, LLC v. Li Qing*, WIPO Case No. [D2016-1172](#) ("the fact the page was re-directed to another bicycle parts company's website shows the Respondent was aware the Complainant was in the bicycle parts business.... Further, the fact that the disputed domain name incorporates the trademark SRAM RED in its entirety strongly suggests the Respondent knew of the Complainant").

In addition, a gap of several years between registration of the Complainant's trademark and the Respondent's registration of the Disputed Domain Name (containing the trademark) can in certain circumstances be an indicator of bad faith. (See *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#)). In this case, the Complainant's rights in its trademark predate any rights that could possibly flow from the Respondent's registration by at least 24 years. The panel accepts this as further evidence of bad faith.

On the issue of use, the Complainant's evidence is that the Disputed Domain Name resolves to an unauthorized webpage that it is using to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark and website, including by use of the Complainant's logo. This panel has also accepted the evidence that the Respondent is accepting payment for goods that it then fails to supply. Use of that nature is unconnected with any *bona fide* supply of goods or services by the Respondent. The use of a domain name for *per se* illegitimate activity of this sort can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith (see [WIPO Overview 3.0](#), sections 2.13.1, 2.13.2 and 3.1.4). This Panel finds that the use of the Disputed Domain Name <srामoutlet.com> resolving to a webpage that resembles the Complainant's main website for a commercial benefit derived from apparent fraud is evidence of bad faith.

In the absence of any evidence to the contrary, this Panel finds that the Respondent has taken the Complainant's trademark SRAM and incorporated it into the Disputed Domain Name without the Complainant's consent or authorization, for the purpose of illegitimately capitalizing on the reputation of the Complainant's trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirements 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 Disputed Domain Name <sramoutlet.com> be transferred to the Complainant.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: June 29, 2022