

ADMINISTRATIVE PANEL DECISION

Otis Elevator Company v. Sigma Elevators

Case No. D2022-3377

1. The Parties

The Complainant is Otis Elevator Company, United States of America (“United States”), represented by Cantor Colburn LLP, United States.

The Respondent is Sigma Elevators, India.

2. The Domain Name and Registrar

The disputed domain name <sigmaelevatorsindia.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2022. On September 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 13, 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 Complainant filed an amended Complaint on September 13, 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 September 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 5, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on October 10, 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 is a manufacturer of elevators, escalators, moving walkways and other people moving products. Its products and services are offered in over 70 countries and territories. In first half of 2022, the Complainant's net sales exceeded USD 10.8 million dollars.

The Complainant has used the name and trademark SIGMA in connection with this business continually since 2000, before the registration of the Domain Name. The Complainant owns trademark registrations in over 70 countries, including the United States and India, e.g., Indian trademark registration No. 991532 registered on April 26, 2005. The Complainant also holds several domain name registrations that include "SIGMA", many of these registered prior to the Respondent's registration of the Domain Name.

The Domain Name was registered on January 4, 2016. The Domain Name has resolved to a webpage that purports to be an official webpage for the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant documents registered trademark rights and argues that its trademark is well known and famous in the elevator business. The Complainant points out that the Domain Name incorporates the Complainant's trademark with the addition of "elevators" and "India". The former addition identifies the Complainant's products sold under its trademark. The latter is a mere geographical indication. Neither of the additions prevent likelihood of confusion. On the contrary, the Domain Name registration and use is impersonation or passing off.

The Complainant asserts that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant argues that the Respondent cannot establish rights in the Domain Name, as the Respondent 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. The Domain Name has been used to mislead consumers that the Respondent's website is an official web site of the Complainant. This not *bona fide*, but evidence of bad faith.

The Complainant submits that the Respondent has selected the Domain Name to disrupt the business of Complainant and/or to attract internet users to its web site by creating a likelihood of confusion with Complainant's trademark. It is not possible to conceive of any use of the Domain Name that would not constitute an infringement of the Complainant's rights. In view of the fame of the Complainant's trademark, and the nature of the Domain Name, it is clear to the Complainant that the Respondent knew of the Complainant and its trademark, when the Respondent registered the Domain Name.

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 rights in its trademark SIGMA. 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 words of "elevators" and "India" at the end. This does not prevent a finding of confusing similarity.

For the purposes of assessing confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the generic Top-Level Domain (“gTLD”) as it is viewed as a standard registration requirement, 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 asserts that the Respondent is not affiliated with nor authorized by the Complainant. There is no evidence suggesting that the Respondent has any rights or legitimate interests in the Domain Name. Further, there is no evidence that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights in the Domain Name, as it has not made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. On the contrary, the Respondent’s use is not *bona fide*, but rather suggests bad faith.

The Panel finds that the Complainant has made out a *prima facie* case showing that the Respondent has no rights or legitimate interests in the Domain Name, which has been unrebutted by the Respondent. 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 Complainant’s trademarks were registered before the registration of the Domain Name. The composition of the Domain Name suggests that the Respondent was aware of the Complainant’s trademark when the Respondent registered the Domain Name.

The Domain Name seems to be registered to attract Internet users by misleading them into believing that the website at the Domain Name is authorized by or somehow connected to the Complainant. The Respondent has not replied to the Complaint, and not provided any evidence of good-faith use.

The Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of the 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 <sigmaelevatorsindia.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: October 12, 2022