

ADMINISTRATIVE PANEL DECISION

SRAM, LLC v. Liguohj Hongji
Case No. D2022-3444

1. The Parties

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

The Respondent is Liguohj Hongji, China.

2. The Domain Name and Registrar

The disputed domain name <bikesram.com> 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 September 16, 2022. On September 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 20, 2022, 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 (Whois Agent, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 20, 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 amendment to the Complaint on September 21, 2022.

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 September 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 20, 2022.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on November 4, 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 was founded in 1987 and is a manufacturer of bicycle parts including gear shifters, drivetrains, suspension and brake components and high-end wheelsets. The Complainant is based in Chicago (US), and has offices in the US and nine other countries.

The Complainant holds numerous registered trademarks consisting of or including the sign SRAM, including the following:

- SRAM mark registered in the US under No. 2056661 on April 29, 1997 in classes 12 and 25;
- SRAM & fig. mark registered in the US under No. 6642190 on February 15, 2022 in class 12.

The Complainant also holds the domain name <sram.com> which it uses to resolve to its official website.

The Respondent registered the disputed domain name on July 22, 2022. The disputed domain name resolved to a website that strongly resembles the Complainant's main website, offering bicycle components for sale and reproducing images from the Complainant's website, including the Complainant's SRAM trademarks.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

(1) The Complainant is the owner of at least 82 trademark registrations in 16 countries or geographic regions worldwide that consist of or contain the mark SRAM. The disputed domain name is confusingly similar to the SRAM trademarks because it includes the SRAM trademark in its entirety plus a descriptive word "bike" that is associated with the Complainant. The suffix ".com" indicates that the disputed domain name is registered in the ".com" generic Top-Level Domain ("gTLD").

(2) 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. The 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 Respondent has not been known by the disputed domain name.

(3) The disputed domain name was registered and is being used in bad faith. The Respondent knew or should have known of the Complainant's rights when it registered the disputed domain name. The Respondent is clearly creating a likelihood of confusion with its SRAM trademark, constituting bad faith use pursuant to paragraph 4(b)(iv) of the Policy. A further indication of bad faith is the fact that the Complainant's registration of the SRAM trademark pre-dates the Respondent's registration of the disputed domain name by more than 25 years.

The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

(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.

The onus of proving these elements is on the Complainant. Paragraph 15(a) of the Rules directs the Panel to decide the 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.

The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions.

It is further noted that the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the complainant has rights.

To prove this element, the Complainant must first establish that there is a trademark or service mark in which it has rights. The Complainant has clearly established that there are trademarks in which it has rights. The Complainant's SRAM trademarks have been registered and used in various countries in connection with the Complainant's bicycle components business.

The Panel observes that the disputed domain name incorporates the Complainant's SRAM trademark in its entirety, simply adding the descriptive term "bike". It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. Moreover, 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. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The addition of the gTLD ".com" shall be disregarded for the purposes of assessing confusing similarity, as it is a standard requirement of registration. See [WIPO Overview 3.0](#), section 1.11.1.

In light of the above, the Panel considers the disputed domain name to be confusingly similar to the Complainant's SRAM trademark.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* showing that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

The Panel observes that the Respondent does not appear to be commonly known by the disputed domain name and that the Respondent does not seem to have acquired trademark or service mark rights (there being no Response or evidence of any such rights). The 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. There are no indications that a connection between the Complainant and the Respondent exists.

Where a domain name consists of a trademark plus an additional term, previous UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (see section 2.5.1 of the [WIPO Overview 3.0](#)). The disputed domain name incorporates the Complainant's SRAM trademark in its entirety and add the descriptive terms "bike". Given the Complainant's commercial activities, the Panel finds that the disputed domain name carries a risk of implied affiliation with the Complainant and cannot constitute fair use in these circumstances.

Furthermore, this Panel also found that the disputed domain name is used in connection with a website including the Complainant's trademarks and images from the Complainant's official website with the addition of product listings at extremely discounted pricing. Therefore, the Panels finds that by using the disputed domain name in connection with a website that falsely purports to be a website for, or otherwise associated with, the Complainant, the Respondent has failed to create a *bona fide* offering of goods or services under the Policy.

According to the consensus view in UDRP panel decisions (see section 2.8 of the [WIPO Overview 3.0](#)), a reseller or distributor can be making a *bona fide* offering of goods and services and thus have a legitimate interest in the domain name if its use meets certain requirements. These requirements normally include the actual offering of goods and services at issue, the use of the site to sell only the trademarked goods or services, and the site's accurate and prominent disclosure of the registrant's relationship with the trademark holder. The respondent must also not try to "corner the market" in domain names that reflect the trademark. Many panels subscribing to this view have also found that not only authorized but also unauthorized resellers may fall within such so-called Oki Data principles (e.g., *Dr. Ing. h.c. F. Porsche AG v. Del Fabbro Laurent*, WIPO Case No. [D2004-0481](#)).

Having carefully inspected the website under the disputed domain name, the Panel, however, has not found signs that prevent confusion with the Complainant. There is no clear on the corresponding website that it is not the trademark owner, even if it offers legitimate goods, by accurately disclosing the registrant's relationship with the trademark owner. Since the Respondent's website does not include any statement clearly setting out the relationship between the Complainant and the Respondent, the Oki Data test does not apply here.

The Respondent had the opportunity to demonstrate rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been rebutted.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name.

In light of the above, the Complainant succeeds on the second element of the Policy (paragraph 4(a)(ii) of the Policy).

C. Registered and Used in Bad Faith

To fulfill the third requirement of the Policy, the Complainant must prove that the disputed domain name was registered and is being used in bad faith.

The Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that these are used in bad faith (see section 4.2 of the [WIPO Overview 3.0](#)).

Paragraph 4(b) of the Policy provides a non-exhaustive list of factors, any one of which may demonstrate bad faith. Among these factors demonstrating bad faith registration and use is the use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In the present case, the Panel finds it inconceivable that the Respondent was unaware of the Complainant and its rights in the SRAM trademark when it registered the disputed domain name. Some of the Complainant's SRAM trademarks predate the registration of the disputed domain name by more than 25 years.

Consequently, it is established by the Panel that the Respondent registered the disputed domain name in bad faith.

Moreover, the website linked to the disputed domain name includes copies of the Complainant's trademarks, reproduces images from the Complainant's official website and purports to sell discounted products of the Complainant. As a result, the Respondent must have had knowledge of the Complainant's rights at the time of registering the disputed domain name. The Panel finds that the Respondent's awareness of the Complainant's trademark rights at the time of registration suggests bad faith.

By redirecting Internet users to website mentioning the Complainant's marks in the same way as on the Complainant's official website, and offering for sale products identical or at least similar to the Complainant's products at a discounted price, the Panel finds that the Respondent intentionally aimed to attract Internet users to visit the website for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website or location and of the products advertised on the website (see *Simyo GmbH v. Domain Privacy Service FBO Registrant / Ramazan Kayan*, WIPO Case No. [D2014-2227](#)).

By including the Complainant's stylized version of the SRAM figurative trademark, the Respondent has only increased the likelihood of confusion between its website and the Complainant. See *Clearwire Communications LLC v. Yvan Edwards*, WIPO Case No. [D2010-1440](#).

Finally, by failing to respond to the Complaint, the Respondent did not take any initiative to contest the foregoing. Pursuant to paragraph 14 of the Rules, the Panel may draw the conclusions it considers appropriate.

Therefore, the Panel finds that, on the balance of probabilities, it is sufficiently shown that the disputed domain name was registered and is being used in bad faith. In light of the above, the Complainant also succeeds on the third and last element of the Policy.

For the reasons set out above, the Panel concludes that the disputed 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 disputed domain name, <bikesram.com>, be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: November 11, 2022