

ADMINISTRATIVE PANEL DECISION

SRAM, LLC v. yan fang
Case No. D2022-3490

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 yan fang, China.

2. The Domain Name and Registrar

The disputed domain name <sramsales.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 September 21, 2022. On September 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 22, 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 September 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2022.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on October 19, 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 following facts are undisputed.

The Complainant was founded in 1987. It produces a full line of drivetrain, suspension and brake components and wheelsets for bicycles.

The Complainant is the owner of numerous trademark registrations in various countries and geographic regions worldwide that consist of or contain the word element “sram”, including the United States registration SRAM (word mark) with registration number 2,056,661, registered on April 29, 1997, for bicycle components (the “Trademark”). Some of the other registrations relate to a stylized version of the word “sram” (the “SRAM Logo”).

The Complainant is the registrant of numerous domain names, each of which includes the SRAM Trademark (as defined below), including the domain name <sram.com>, which was created on January 4, 1996.

The Domain Name was registered on August 24, 2022, and resolves to a website (the “Website”) that seems to be offering the Complainant’s bicycle components and reproduces images from the Complainant’s website, including the SRAM Logo.

5. Parties’ Contentions

A. Complainant

To the extent relevant for rendering a decision in this matter, the Complainant contends the following.

The Domain Name is confusingly similar to the Trademark because it contains the Trademark in its entirety, with the addition of the word “sales”.

The Respondent is using the Domain Name in connection with the Website which falsely purports to be a website for, or otherwise associated with, the Complainant by offering for sale bicycle components and reproducing images from the Complainant’s website (without permission), including the SRAM Logo. The Website has been reported to the Complainant as a “scam” being used in connection with “illegal activity.” The Respondent is not affiliated, connected or associated with, or sponsored or approved by the Complainant in any way.

The Respondent has no rights or legitimate interests in the Domain Name. The Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the Trademark in any manner. By using the Domain Name in connection with the Website that falsely purports to be a website for, or otherwise associated with, the Complainant – by using the SRAM Logo and reproducing images from the Complainant’s website, all without the Complainant’s permission, the Respondent has failed to create a *bona fide* offering of goods or services under the Policy, and, therefore, the Respondent cannot demonstrate rights or legitimate interests. To the Complainant’s knowledge, the Respondent has never been commonly known by the Domain Name and has never acquired any trademark or service mark rights in Domain Name.

To the extent that the Respondent would consider itself to be a reseller of the Complainant’s products (which Respondent is not authorized by the Complainant to do), the Respondent nevertheless lacks rights or legitimate interests with respect to the Domain Name under the so-called Oki Data criteria (see section 2.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#))), as in particular, the Respondent is not “actually... offering the goods or services at issue”, the Website contains no identifying information on the “About Us” page of the Website, the physical address on the “Contact Us” page of the Website apparently does not exist, and the Website fails to disclose that it is not associated with the Complainant.

The Trademark is clearly famous and/or widely known, given that it is protected by at least 82 trademark registrations in 16 countries or geographic regions worldwide, the oldest of which was registered more than 25 years ago.

Given the global reach and popularity of the Complainant's services under the Trademark as well as the Domain Name's similarity to the Complainant's own domain name <sram.com>, it is inconceivable that the Respondent chose the Domain Name without knowledge of the Complainant's activities and Trademark. The Domain Name is "so obviously connected with" the Complainant, that the Respondent's actions suggest "opportunistic bad faith" in violation of the Policy (*Research In Motion Limited V. Dustin Picov*, WIPO Case No. [D2001-0492](#)). In addition, by using the Domain Name in connection with the Website, that falsely purports to be a website for, or otherwise associated with, the Complainant – by using the SRAM Logo and reproducing images from the Complainant's website, all without the Complainant's permission, which has been reported as a "scam" site being used in connection with "illegal activity", the Respondent is clearly "creating a likelihood of confusion" with the Trademark, constituting bad faith pursuant to paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of a disputed domain name, a complainant shall prove the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

A. Identical or Confusingly Similar

The Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the domain name must be shown to be identical or confusingly similar to that mark.

The Complainant has shown that it has rights in the Trademark that also predate the registration of the Domain Name for many years. The fact that these trademark rights predate the registration of the Domain Name is as such irrelevant for the Panel's assessment of the first element, as the first element serves as a standing requirement, but is as such relevant for the assessment of the second and the third elements.

The Panel finds the Domain Name confusingly similar to the Trademark. The Trademark is clearly recognizable in the Domain Name. The addition of the term "sales" does not prevent a finding of confusing similarity between the Trademark and the Domain Name.

It is also already well established that the addition of a generic Top-Level Domain ("TLD") such as ".com" is typically irrelevant when determining whether a domain name is confusingly similar to a complainant's trademark.

As a result, the Panel finds that the Domain Name is confusingly similar to the Trademark, and that the Complainant has thus satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides some examples without limitation of how a respondent can demonstrate rights or legitimate interests in a domain name:

(i) before receiving any notice of the dispute, the respondent used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent has been commonly known by the domain name; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.

Lacking a response from the Respondent, despite of the various efforts by the Center to reach the Respondent, as well as the *prima facie* evidence in the Complaint, the Panel finds that the above circumstances are not present in this particular case and that the Respondent has no rights or legitimate interests in the Domain Name.

The Complainant has not licensed or authorized the usage of the Trademark to the Respondent, and it does not appear from the present record that the Respondent is commonly known by the Domain Name.

The Panel also notes that the present record provides no evidence to demonstrate the Respondent's intent to use or to make preparations to use the Domain Name in connection with a *bona fide* offering of goods or services. To the contrary, the Respondent has been using the Domain Name for the Website that falsely purports to be a website for, or otherwise associated with, the Complainant – by using the SRAM Logo and reproducing images from the Complainant's website. The Complainant also contends that the Domain Name has been reported as a "scam" site being used in connection with "illegal activity" and that the physical address on the "Contact Us" page of the Website apparently does not exist. The Respondent therefore has also not used the Domain Name in good faith or for a noncommercial activity. Moreover, the Panel finds that the Domain Name is inherently misleading (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Consequently, the Panel is satisfied that the Respondent has no rights or legitimate interests in the Domain Name, and thus the Complainant has proven the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel refers to its considerations under 4.B.

Paragraph 4(b) of the Policy states that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name in bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) 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 mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

When the Domain Name was registered by the Respondent, the Trademark was already directly connected to the Complainant's products. The Trademark and the Complainant's domain name <sram.com> were registered and have been in use well before the recent registration of the Domain Name. The Panel finds that the Trademark enjoys notoriety in various parts of the world. Given the misleading nature of the Website including the Respondent's use of the Complainant's photographs on the Website, it is unlikely that the Respondent would have registered the Domain Name without having the Complainant and its trademarks in mind.

The Panel finds that, lacking any response from the Respondent and thus the unrebutted facts brought forward by the Complainant, in particular the misleading nature of the Website that the inherently misleading Domain Name is also being used in bad faith.

Accordingly, the Panel finds that the Domain Name was registered and is being used in bad faith, and the Complainant has thus also satisfied the third element 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 <sramsales.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: October 25, 2022