

ADMINISTRATIVE PANEL DECISION

Royal Caribbean Cruises, Ltd. v. Cheryl Grudnoske
Case No. D2023-1706

1. The Parties

Complainant is Royal Caribbean Cruises, Ltd., United States of America (“United States”), represented by Sanchez Fischer Levine, LLP, United States.

Respondent is Cheryl Grudnoske, United States.

2. The Domain Name and Registrar

The disputed domain name <staroftheseas.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 18, 2023. On April 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 20, 2023, 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 to Complainant on April 27, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on the same date.

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 Respondent of the Complaint, and the proceedings commenced on May 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 29, 2023. Respondent sent an email communication to the Center on May 9, 2023. The Center proceeded to panel appointment on June 29, 2023.

The Center appointed Robert A. Badgley as the sole panelist in this matter on July 5, 2023. 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.

On July 25, 2023, in light of the apparent uses of a term corresponding to the disputed domain name by Respondent in social media, the Panel issued Procedural Order No. 1 and invited the Respondent to comment by August 4, 2023, on the information based on the Panel's research.

Respondent did not submit any reply to Procedural Order No. 1.

4. Factual Background

Complainant operates a cruise ship firm. Since September 4, 2014, it has used the mark OF THE SEAS to identify and distinguish its services. On November 4, 2014, the United States Patent and Trademark Office ("USPTO") granted Complainant a registration of the word mark OF THE SEAS under USPTO Reg. No. 4,632,752, in connection with, among other things, "cruise ship services," "entertainment services," and "restaurant and bar services aboard a cruise ship".

On June 10, 2022, Complainant filed an application with the USPTO (Serial No. 97453902) to register the service mark STAR OF THE SEAS in connection with "cruise ship services". That application is still pending.

Complainant asserts that its "OF THE SEAS mark is recognized worldwide and each of Complainant's cruise ships bear the OF THE SEAS mark".

The Domain Name was registered on November 4, 2015. The Domain Name resolves to a parking page containing hyperlinks such as "Cruise Ship," "Cruise Harmony," and "Harmony." According to Complainant, these hyperlinks lead to the websites of Complainant's competitors in the cruise ship tourism industry. Complainant alleges that Respondent derives pay-per-click revenue for these hyperlinks.

Respondent has not disputed any of the foregoing allegations.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply substantively to Complainant's contentions. On May 9, 2023, Respondent sent an email to the Center stating, "Received message you were trying to contact me about my domain name".

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark OF THE SEAS through registration demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The entire mark OF THE SEAS is incorporated into the Domain Name, and, despite the additional word “stars,” the mark remains recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are 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 or service mark at issue.

The Panel concludes that Respondents lack rights or legitimate interests in respect of the Domain Name. Respondent has not come forward – even after the Procedural Order No. 1 was issued – to articulate any *bona fides* she may have vis-à-vis the Domain Name. On this undisputed record, it appears to the Panel more likely than not that Respondent registered the Domain Name with Complainant’s registered trademark in mind and that such use is not referential (and potentially with a view toward deriving revenue from it via hyperlinks to Complainant’s competitors’ sites). Such a use of the Domain Name is certainly not legitimate.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes, on this record, that Respondent has registered and used the Domain Name in bad faith under the Policy. The Panel incorporates here its discussion above in the "Rights or Legitimate Interests" section, and concludes that Respondent's conduct runs afoul of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

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 <staroftheseas.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: August 10, 2023