

ADMINISTRATIVE PANEL DECISION

SIPCHEM EUROPE S.A. v. Daniel Vince

Case No. D2022-3144

1. The Parties

The Complainant is SIPCHEM EUROPE S.A., Switzerland, represented by Watson Farley & Williams (Middle East) LLP, United Arab Emirates.

The Respondent is Daniel Vince, United States of America.

2. The Domain Name and Registrar

The disputed domain name <sipchem.shop> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 25, 2022. On August 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 25, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 30, 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 amended Complaint on September 2, 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 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 27, 2022.

The Center appointed Daniel Peña 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is the owner of the international trademark SIPCHEM under registration No.r 1407136 on April 18, 2019, in the International class 01, 17, 22, and 35, on the basis of the underlying basic registration in Switzerland as of October 19, 2018 under registration No. 728857.

The disputed domain name was registered on May 25, 2022. At the time, the Complaint was filed, the disputed domain name resolved to an online shop.

5. Parties' Contentions

A. Complainant

The disputed domain is almost identical to the Complainant's trademark SIPCHEM.

The Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Respondent has not been commonly known by the disputed domain name.

The use of the disputed domain name is misleading and intended to confuse the public.

The Complainant has put in place cybersecurity measures to identify further phishing attempts. On June 13, 2022, the Complainant's cybersecurity team were alerted of the disputed domain name resolving to phishing IP addresses

The Respondent was attempting to portray itself as part of the Complainant, by using the same physical/office address as the Complainant's Singapore branch.

The Respondent appears to have registered the disputed domain name primarily for the purpose of misleading the Internet users by suggesting it is a legitimate business with a legitimate address.

The Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant, the purpose of which was to inevitably affiliate itself to the Complainant and/or illegitimately make use of its presence.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "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".

It has been a consensus view in previous UDRP decisions that a Respondent's default (*i.e.*, failure to submit a response) would not by itself mean that the Complainant is deemed to have prevailed; a Respondent's default is not necessarily an admission that the Complainant's claims are true (See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").). A Complainant must proof each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

(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.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant has provided evidence of its rights in the SIPCHEM trademarks on the basis of its multiple trademark registrations. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see [WIPO Overview 3.0](#), section 1.2.1). It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a trademark. Such finding is confirmed, for example, within section 1.7 of [WIPO Overview 3.0](#).

The disputed domain name is identical to SIPCHEM trademark registered by the Complainant. The Respondent's incorporation of the Complainant's trademark in full in the disputed domain name is sufficient to establish that the disputed domain name is confusingly similar to the Complainant's trademarks. Furthermore, the addition of the generic Top-Level Domain ("gTLD") ".shop" does not prevent a finding of confusing similarity either.

The Panel is satisfied that the disputed domain name is identical or confusingly similar to the Complainant's mark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant bears the burden of proof in establishing this requirement. In view of the difficulties inherent in proving a negative and because the relevant information is mainly in the possession of the Respondent, it is enough for the Complainant to establish a *prima facie* case which, if not rebutted by sufficient evidence from the Respondent, will lead to this ground being set forth.

Refraining from submitting any Response, the Respondent has brought to the Panel's attention no circumstances from which the Panel could infer that the Respondent has rights to or legitimate interests in the disputed domain name.

The Panel will now examine the Complainant's arguments regarding the absence of rights or legitimate interests of the Respondent in connection with the disputed domain name. The Complainant claims that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the Complainant's trademarks in a domain name or in any other manner.

The fact that the website at the disputed domain name was purporting to be operated by "SIPCHEM Asia" does not give rise to rights or legitimate interests. In this regard, the Panel notes that, as evidenced by the Complainant, the Respondent has used in the website at the disputed domain name an almost identical physical/office address as the Complainant's Singapore branch (merely changing the order of some of the elements of the address).

The Panel also finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant's trademarks (see [WIPO Overview 3.0](#), section 2.5.1). The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain names, leaving the Complainant's *prima facie* case unrebutted, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

The Panel finds the Respondent has no rights or legitimate interests in respect of the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a disputed domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; (ii) the 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 the respondent has engaged in a pattern of such conduct; (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 the respondent's website or location or of a product or service on its website or location.

The Panel is satisfied that by directing the disputed domain names to a commercial website, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of the products on its website (see section 3.1.3 of the [WIPO Overview 3.0](#)). Under paragraph 4(b)(iv) of the Policy, this circumstance shall be evidence of the registration and use of a domain name in bad faith.

Having considered the Complainant's submissions and in the absence of a Response, the Panel accepts the Complainant's submission that the Respondent has tried to create a likelihood of confusion with the Complainant, the purpose of which was to inevitably affiliate itself to the Complainant and/or illegitimately make use of its presence/address. Consequently, the Panel finds that the disputed domain name was registered and used by the Respondent in bad faith within 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 <sipchem.shop> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: October 23, 2022