

ADMINISTRATIVE PANEL DECISION

SRAM, LLC v. Mndj Jndu

Case No. D2022-3247

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 Mndj Jndu, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <bikerockshox.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 1, 2022. On September 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 1, 2022, 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 (Whois Agent, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 14, 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 15, 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 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2022.

The Center appointed Jeremy Speres as the sole panelist in this matter on October 25, 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, United States, and has offices in four other United States states and eleven cities in nine other countries.

The Complainant uses its ROCK SHOX trade mark for bicycle wheel suspensions and owns numerous trade mark registrations for that mark in numerous jurisdictions, including in the Respondent's jurisdiction of Hong Kong, China, under registration No. 00597/96ROCK SHOX in class 12 with registration date September 20, 1994. The Complainant's ROCK SHOX mark has been recognised as being well-known by a prior UDRP panel (*SRAM, LLC v. Whois Agent, Domain Protection Services, Inc. / Jgdg Ybdeg*, WIPO Case No. [D2022-2531](#)).

The Domain Name was registered on May 20, 2022 and currently resolves to a website offering the Complainant's bicycle parts for sale using the Complainant's ROCK SHOX trade mark, featuring imagery copied from the Complainant's website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its ROCK SHOX mark as the mark is wholly contained within the Domain Name, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith given that the Respondent's website is calculated to deceive users into believing that it is associated with the Complainant for the Respondent's commercial gain.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's registered ROCK SHOX mark is wholly contained within the Domain Name. Where the trade mark is recognisable within the disputed domain name (as in this case), the addition of other elements does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its ROCK SHOX mark was registered and well-known for many years prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark and the Complainant has certified that the Domain Name is unauthorised

by it.

The general impression created by the Domain Name's website, including use of imagery sourced from the Complainant's website and extensive use of the Complainant's well-known ROCK SHOX mark, is one of impersonation of the Complainant. UDRP Panels have categorically held that the use of a domain name for illegal activity (e.g. impersonation as in this case) can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#) at section 2.13). To the extent that the Domain Name's website might be considered that of a reseller of the Complainant's products, it does not meet the requirements of the well-known Oki Data test given that the site does not accurately and prominently disclose the Respondent's relationship with the Complainant (*Oki data Americans, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); and [WIPO Overview 3.0](#) at section 2.8).

There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy, nor any others which might confer rights or legitimate interests upon the Respondent, pertain. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

The Panel has independently established that the Domain Name is almost certainly under the common control of the unsuccessful respondent in a prior UDRP case in which it was found that the respondent targeted the Complainant's ROCK SHOX mark in a manner virtually identical to that at issue in the present case. The following factors indicate that the same respondent is involved in *SRAM, LLC v. Whois Agent, Domain Protection Services, Inc. / Jgdg Ybdeg*, WIPO Case No. [D2022-2531](#) *supra* and the present case. Historical Whois records reveal that both domain names used the same registrar and Whois privacy service and were registered within three weeks of one another. Both domain names use Cloudflare's name servers. Archives sourced from the Internet Archive reveal that the source code of both websites is structured identically, both sites use the same search engine optimisation tool, both sites use the same Wordpress theme and both sites use virtually identical meta and title tags referencing the Complainant's mark. Both sites use an identical look and feel and menu titles. The registrant names for both domain names follow a similar, unlikely structure with only one vowel in the surname and are obviously contrived: "Jgdg Ybdeg" and "Mndj Jndu". Both registrants are apparently based in China. Per the [WIPO Overview 3.0](#) at section 4.11.2, these factors all indicate common control. Thus, it is highly likely that the Respondent (albeit under a different name) has been found to have targeted the Complainant's ROCK SHOX mark before, which is a clear indicator of targeting and bad faith in the present case involving highly similar facts.

The Complainant provided evidence of actual confusion in the form of an email from a customer querying whether the Domain Name's website is linked to the Complainant. Evidence of actual confusion is a strong indicator that a registrant intended to attract, for commercial gain, users to its website by creating a likelihood of confusion with a complainant's mark ([WIPO Overview 3.0](#) at section 3.1.4).

It is clear in the circumstances that the Respondent must have known of the Complainant's mark and that its intention was to impersonate the Complainant for commercial gain, falling squarely within paragraph 4(b)(iv) of the Policy.

The Panel draws adverse inferences from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3) and the use of a privacy proxy service ([WIPO Overview 3.0](#) at section 3.6). The Complainant has satisfied 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, <bikerockshox.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: November 8, 2022