

ADMINISTRATIVE PANEL DECISION

Sealed Air Corporation (US) v. Quan Zhongjun, Juanita Co.
Case No. D2022-3832

1. The Parties

The Complainant is Sealed Air Corporation (US), United States of America ("United States"), represented by Nelson Mullins Riley & Scarborough, LLP, United States.

The Respondent is Quan Zhongjun, Juanita Co., China.

2. The Domain Name and Registrar

The disputed domain name <sesledair.com> is registered with Cosmotown, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 12, 2022. On October 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 16, 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 October 17, 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 October 19, 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 October 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 17, 2022.

The Center appointed Petra Pecar as the sole panelist in this matter on November 22, 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 in this administrative proceeding is a corporation incorporated in the state of North Carolina, the United States. The Complainant is a global provider of food safety and security, and product protection solutions and equipment.

The Complaint includes evidence on ownership of numerous trademark registrations for SEALED AIR in the United States and internationally, *inter alia*, the following:

- United States Reg. No. 0925912 for word mark SEALED AIR, registered on December 21, 1971, in Class 16;
- United States Reg. No. 1580890, for word mark SEALED AIR, registered on February 6, 1990, in Classes 1, 3, 7, 16, and 17;
- United States Reg. No. 2534715, for word mark SEALED AIR, registered on January 29, 2002, in Classes 10 and 17;
- United States Reg. No. 5807074, for word mark SEALED AIR, registered July 16, 2019, in Class 7.
- Indian trademark Reg. No. 1399455 for word mark SEALED AIR, registered on November 16, 2005, in Classes 7, 16, and 17;
- Japanese trademark Reg. No. 0004672347 for word mark SEALED AIR, registered on May 17, 2003, in Class 7.

The Complainant has owned the domain name <sealedair.com> since 1998, and operates a commercial website via that domain name.

The disputed domain name was registered on February 22, 2022, and it currently resolves to an inactive page. According to the Complainant, at the time of the submission of the Complaint, the disputed domain name was directing to a parking page showing sponsored pay-per-click ("PPC") links to other websites referring to the Complainant's field of business.

5. Parties' Contentions

A. Complainant

The Complainant argues that it is a global leading provider of food safety and security, and product protection solutions and equipment in North and South America, Europe, the Middle East, Africa, and the Asia Pacific. Further to that, the Complainant asserts that because of its extensive, continuous, and substantial investment in use of the SEALED AIR trademark in commerce, this trademark has acquired a substantial amount of reputation and goodwill, which consumers recognize as belonging exclusively to the Complainant. In that respect the Complainant provided a list of federal trademark registrations for the SEALED AIR trademark in the United States, and a list of trademark registrations for SEALED AIR trademark in many countries worldwide. Lastly, the Complainant states that as a result of the Complainant's decades-long, exclusive, and extensive global use of the SEALED AIR trademark, the SEALED AIR trademark is well-known, and that this has been recognized and observed by previous UDRP panels.

The Complainant states that the disputed domain name is confusingly similar to the Complainant's SEALED AIR trademark, as the disputed domain name is comprised of an obvious and intentional misspelling of the SEALED AIR trademark. Namely, the Respondent has changed the letter "a" in the "SEALED" portion of the trademark with the letter "s". The Complainant claims that the disputed domain name is an obvious and classic example of typosquatting as the keys for the letters "a" and "s" on the standard QWERTY keyboard

layout are adjacent to each other and represent the obvious and intentional misspelling of the Complainant's SEALED AIR trademark in the disputed domain name.

The Complainant also alleges that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent is not commonly known by the SEALED AIR trademark. Also, according to the Complaint, it has not authorized, licensed, or otherwise permitted the Respondent to use its SEALED AIR trademark. The Complainant further states that the disputed domain name has not been used in connection with a *bona fide* offering of goods or services or that the Respondent has made demonstrable preparation to do so. To support its claims, the Complainant states that the disputed domain name resolves to the website with a PPC advertisement landing page featuring advertisements for products and services directly related to the Complainant's products and services, as well as for the products and services of direct competitors of the Complainant.

Regarding the Respondent's bad faith, the Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. Complainant claims that its SEALED AIR trademark is highly distinctive, and globally well-known trademark that has been in use since 1963, which the Respondent should have known at the time of the registration of the disputed domain name since a simple Internet search would have revealed existence of the Complainant and its trademark rights.

According to the Complainant, bad faith exists because the Respondent has clearly registered the disputed domain name primarily for the purpose of intentionally attempting to attract, for commercial gain, Internet users to the disputed domain name and the website, by creating a likelihood of confusion with the Complainant's SEALED AIR trademark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Even if the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant. "A Panel shall decide a 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", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of 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 by the Respondent 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. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#))).

The Panel finds that the Complainant has established rights in the SEALED AIR trademark based on evidence of ownership of the trademark registrations, which predate the registration date of the disputed domain name in some cases for more than 60 years.

The Respondent has changed the letter "a" in the SEALED AIR trademark to the letter "s" (*i.e.* "sesledair"), which the Panel finds to be clear and intentional misspelling of the SEALED AIR trademark. Namely, the keys for the letters "a" and "s" on a conventional QWERTY keyboard layout are next to each other, and therefore can be easily mixed in typing. Therefore, the Panel finds that the disputed domain name represents a clear example of typosquatting.

Furthermore, the disputed domain name also contains generic Top-Level Domain ("gTLD") ".com". The applicable gTLD in a domain name, such as ".com" in this case, is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test (see section 1.11 of the [WIPO Overview 3.0](#)). The Panel finds no relevance in the applicable gTLD in this case and the same is therefore disregarded from comparison.

In view of the above, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to the trademark in which the Complainant has established rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under this second element of the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant is generally deemed to have satisfied the second element, as set out in paragraph 4(a)(ii) of the Policy (see also [WIPO Overview 3.0](#), section 2.1).

Moreover, the Policy provides guidance to respondents on how to demonstrate rights or legitimate interests in the domain name. In particular, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name, including: (i) use of the domain name "in connection with a *bona fide* offering of goods or services"; or (ii) demonstration that the respondent has been "commonly known by the domain name"; or (iii) "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 notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent has not been granted a license by the Complainant and has not in any other way been given permission to use the Complainant's SEALED AIR trademark or any other confusingly similar sign. Furthermore, there is no indication presented before the Panel that the Respondent is commonly known by the disputed domain name. The Respondent did not present any proof or justification that would have suggested any rights or legitimate interests in relation to the disputed domain name.

As mentioned above, the disputed domain name does not resolve to an active website. However, the Complainant provided evidence that at the time of the submission of the Complaint, the disputed domain name resolved to a parking page with PPC sponsored links to websites offering services identical or related to services of the Complainant. Described circumstances indicate that the Respondent's registration of the disputed domain name was made with an intention of commercial gain on the Complainant's trademark and therefore the Panel finds that there is no legitimate noncommercial or fair use of the disputed domain name.

In accordance with the above, the Panel finds that the Complainant has made a *prima facie* demonstration of the Respondent's lack of rights or legitimate interests in respect of the disputed domain name, which has not been rebutted by the Respondent, and that accordingly the requirements of paragraph 4(a)(ii) of the Policy have been met by the Complainant.

C. Registered and Used in Bad Faith

The third element of paragraph 4(a)(iii) of the Policy requires the Complainant to demonstrate that the Respondent registered and is using the disputed domain name in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when, by using the domain name, a 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 trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

Having in mind the Complainant's registrations of the SEALED AIR trademark, the Respondent should have been aware of the existence of the prior rights of the Complainant. Based on the information and the evidence provided by the Complainant, the Panel finds that at the time of registration of the disputed domain name, the Respondent was or, at least, should have been aware of the Complainant's SEALED AIR trademarks, since the Respondent's registration of the disputed domain name occurred more than 60 years after the Complainant's first registration of the SEALED AIR trademark. For that reason, it seems most likely that the Respondent targeted the Complainant and its SEALED AIR trademark when registering the disputed domain name. Also, a trademark register search, or even a simple online search prior to the registration of the disputed domain name would have informed the Respondent of the existence of the SEALED AIR trademark and the Complainant's extensive use of such trademark as a source identifier.

Furthermore, changing the letter "a" in SEALED AIR trademark with the letter "s" is an obvious example of typosquatting as the keys for the letters "a" and "s" on the standard QWERTY keyboard layout are adjacent to each other. The Panel therefore finds that the disputed domain name consists of an obvious typosquatting variation of the Complainant's distinctive trademark. The structure of the disputed domain name itself, namely the combination of the Complainant's trademark with replaced letter "a" with letter "s" imply that the Respondent was aware of the Complainant and was targeting the Complainant through registration of the disputed domain name.

This conclusion is further strengthened by the fact that the Respondent used the disputed domain name for directing to a parking page showing PPC sponsored links to websites where third-party products and services directly related to the Complainant's products and services are being offered.

Namely, the Complainant provided evidence that at time of filing of the Complaint, the disputed domain name resolved to a parking page containing PPC sponsored advertisements featuring ads related to "Custom Packing Boxes", "Automated Packaging Systems", "Sealed Air Products", "LED Video Wall System", and "TCP LED" products and services and the underlying ads for each of the forementioned categories for third-party products and services, some of which are offered by the Complainant's direct competitors. The abovementioned use of the disputed domain name with goods and services related to the Complainant and his competitors also indicates that the Respondent registered the disputed domain in bad faith in order to obtain commercial gain on the basis of the Complainant's trademark.

Although at the moment the disputed domain name resolves to an inactive webpage, the evidence provided by the Complainant proves sufficiently that the Respondent used the disputed domain name to capitalize on the goodwill and notoriety associated with the Complainant's SEALED AIR trademark in the form of click through revenue from the PPC advertisements. In these circumstances, the fact that the disputed domain name does not resolve to an active website does not prevent a finding of bad faith.

Therefore, the Panel finds that the Complainant has proven that the Respondent registered and is using the disputed domain name in bad faith in accordance with 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 <sesledair.com> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: December 6, 2022