

## **ADMINISTRATIVE PANEL DECISION**

Southern Glazer's Wine and Spirits, LLC v. Carolina Rodrigues, Fundacion Comercio Electronico  
Case No. D2022-4785

### **1. The Parties**

The Complainant is Southern Glazer's Wine and Spirits, LLC, United States of America ("United States"), represented by Jackson Walker LLP, United States.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

### **2. The Domain Name and Registrar**

The disputed domain name <southerngazers.com> 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 December 13, 2022. On December 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 15, 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 (Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 16, 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 December 20, 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 December 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 19, 2023.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on January 24, 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.

#### **4. Factual Background**

The Complainant, Southern Glazer's Wine and Spirits, LLC, was formed in 2016 as a result of a transaction between Southern Wine & Spirits of America, Inc. and Glazer' Inc. The Complainant is a licensed distributor of alcohol beverage products, such as top-rated wine, beer, spirits and more.

The Complainant is the owner of several trademark registrations incorporating the term "Southern Glazer's", including the following:

- United States Trademark Registration No. 5214882 SOUTHERN GLAZER'S, registered on May 30, 2017, in class 35;

- United States Trademark Registration No. 5233805 SG SOUTHERN GLAZER'S WINE & SPIRITS and Design, registered on June 27, 2017, in class 35;

- United States Trademark Registration No. 5233679 SG SOUTHERN GLAZER'S WINE AND SPIRITS and Design, registered on June 27, 2017, in class 35.

The Complainant also owns the domain name <southernglazers.com> which relocates to the website in which the Complainant promotes and operates its business.

The Respondent registered the disputed domain name <southerngazers.com> on September 20, 2022 which redirects to different websites.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant is known by its name -Southern Glazer's- throughout the United States and Canada to consumers in the market for distributorship services in the field of wine, beer, spirits, other alcoholic and non-alcoholic beverages, and the Complainant has conducted extensive business under that name since 2016. The Complainant also advertises under the name Southern Glazer's and maintains its social media presence under that name.

The Complainant claims that the disputed domain name is confusingly similar with the trademark SOUTHERN GLAZER'S in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

The Respondent does not have a current business relationship with the Complainant. The Complainant has not authorized the Respondent to use its SOUTHERN GLAZER'S marks in a domain name or otherwise.

The Respondent does not have any registered trademarks or trade names corresponding to the disputed domain name.

The disputed domain name does not consistently resolve to any one website, but redirects to different websites seemingly at random, some of which appear to be fishing or scam websites and others which appear to belong to legitimate but unrelated websites such as Apple, as shown in the relevant attached screenshots when visited on December 5, 2022.

The Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's marks as to the source of the Respondent's website, and intercepting Internet users seeking the Complainant's legitimate website located at "www.southernglazers.com".

Finally, the Complainant requests the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with 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 was registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

As set forth in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's SOUTHERN GLAZER'S trademark.

The disputed domain name <southerngazers.com> incorporates the Complainant's trademark SOUTHERN GLAZER'S with the omission of the letter "l", which does not prevent a finding of confusing similarity. The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark SOUTHERN GLAZER'S in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy sets out the following several circumstances which, without limitation, if found by the panel, shall demonstrate that the respondent has rights to or legitimate interests in a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or

- the respondent (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if the respondent has acquired no trademark or service mark rights; or
- the respondent is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has proved that they are the owners of the SOUTHERN GLAZER'S mark. There is no indication that they have licensed or otherwise permitted the Respondent to use any of their trademarks, nor have they permitted the Respondent to apply for or use any domain name incorporating their marks.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein. The name of the Respondent does not resemble the disputed domain name in any manner.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other element to prove that the Respondent has legitimate interests or that it has established rights in the disputed domain name. The disputed domain name randomly redirects to different websites.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

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

### **C. Registered and Used in Bad Faith**

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark SOUTHERN GLAZER'S mentioned in section 4 above (Factual Background) when it registered the disputed domain name on September 20, 2022.

The Respondent, when registering the disputed domain name, has targeted the Complainant's trademark SOUTHERN GLAZER'S by deleting the letter "I" –which is tantamount to "cybersquatting"– with the intention to confuse Internet users and capitalize on the fame of the Complainant's name and trademark for its own monetary benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)).

The Panel finds that the Respondent's use of the disputed domain name to resolve to different websites, including some websites possibly for phishing purposes, constitutes bad faith use under the Policy.

Last but not least, the Complainant has proved that the Respondent has a long history of engaging in bad faith conduct in some 80 UDRP proceedings where panels have ruled that the Respondent registered the relevant disputed domain name in bad faith.

The Panel finds that the Respondent has registered and used the disputed domain intentionally to attempt 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. This amounts to bad faith under paragraph 4(b)(iv) of the Policy.

The Panel finds that the disputed domain name was registered and is being used in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

## **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 <southerngazers.com> be transferred to the Complainant.

*/Miguel B. O'Farrell/*

**Miguel B. O'Farrell**

Sole Panelist

Date: February 7, 2023