

ADMINISTRATIVE PANEL DECISION

Laika, LLC v. Nano Techan
Case No. D2022-4790

1. The Parties

The Complainant is Laika, LLC, United States of America, represented by Stoel Rives LLP, United States of America.

The Respondent is Nano Techan, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <coraline.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 December 14, 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 the same day, 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 December 15, 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 December 19, 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 December 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2023.

The Center appointed Zoltán Takács as the sole panelist in this matter on January 16, 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 is a stop motion animation studio. "Coraline" is an award-winning 2009 3-D stop motion animated dark fantasy horror film produced by the Complainant.

The Complainant, among others, owns the International Trademark Registration ("IR") No. 1338613 for the word mark CORALINE, registered since December 12, 2016, for goods and services of 9 and 41 of the Nice Agreement Concerning the International Classification of Good and Services for the Purposes of the Registration of Marks.

The Complainant owns the domain name <laika.com>, which was registered on February 20, 1996, and at which it sells its official Coraline merchandise.

The disputed domain name was registered on November 26, 2021, and has resolved to a website that purported to sell official Coraline products.

5. Parties' Contentions

A. Complainant

The Complainant contends that save the applicable Top-Level Domain ("TLD") in the disputed domain name, in this case ".shop", the disputed domain name is identical to its CORALINE trademark.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy.

The Complainant contends that the Respondent's use of its CORALINE trademark on the website under the disputed domain name, texts and copyrighted images from the Coraline film, and merchandise, and the Respondent's false representation of claiming to be an official Coraline merchandising store while promoting counterfeit goods evidences registration and use of the disputed domain name in bad faith.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

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".

A Complainant must evidence 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

Under paragraph 4(a)(i) of the Policy, there are two requirements which the Complainant must establish, first that it has rights in a trademark or service mark, and second that the disputed domain name is identical or confusingly similar to the trademark or service mark.

It has been a consensus view among UDRP panels that if the complainant owns a nationally or regionally registered trademark, then it generally satisfies the threshold requirement of having trademark rights.

The Complainant produced evidence of having registered rights in the CORALINE trademark and for the purpose of this proceeding the Panel establishes that the IR No. 1338613 satisfies the requirement of having trademark rights for the purpose of the Policy.

Having determined the presence of the Complainant's trademark rights, the Panel next assesses whether the disputed domain name is identical or confusingly similar to the Complainant's trademark.

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name.

According to section 1.11.1 of the [WIPO Overview 3.0](#), the applicable TLD in a domain name (in this case ".com") is viewed as a standard registration requirement and as such is generally disregarded under the first element confusingly similar test.

Other than the applicable ".shop" TLD, the disputed domain name consists solely of the Complainant's CORALINE trademark, and the Panel finds that the disputed domain name is therefore identical to the Complainant's trademark, and that the first ground of the Policy is established.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its 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 and services; or
- (ii) it has been commonly known by the domain name; or
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

According to section 2.1 of the [WIPO Overview 3.0](#), while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent.

As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with the relevant evidence demonstrating its rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

In the present case, the Complainant has submitted sufficient and uncontested evidence that it holds well-established rights in the CORALINE trademark and that it has never authorized the Respondent to use its trademark in a domain name or otherwise.

According to the documentary evidence submitted by the Complainant, the Respondent has used the disputed domain name to deceive Internet users looking for the Complainant through redirecting them to its own website at which the Respondent alleged to be selling official Coraline merchandise.

The Complainant identified these products as counterfeit on a basis of side-by-side comparison of the pertinent goods, and the Panel finds this sufficient to conclude that the goods offered for sale on the Respondent's website at the disputed domain name are, more likely than not, counterfeit. Such use of the disputed domain name is fraudulent, illegal, and can never create any rights or legitimate interests in the disputed domain name (see section 2.13.1 of the [WIPO Overview 3.0](#)). In addition, the nature of the disputed domain name, being identical to the Complainant's trademark, carries a high risk of implied affiliation with the Complainant.

The Respondent failed to respond, and by doing so failed to offer the Panel any type of evidence set forth in paragraph 4(c) of the Policy, or otherwise counter to the Complainant's *prima facie* case and the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of factors which, if found by the panel to be present, shall be evidence of registration and use of a domain name in bad faith. This non-exclusive list includes:

- “(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have 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 you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

The Complainant's CORALINE trademark is inherently distinctive for the corresponding goods and services and predates the registration of the disputed domain name.

The Respondent reproduced the Complainant's trademark in the disputed domain name and has used the Complainant's texts and copyrighted materials at the website under the disputed domain name. Thus, it is clear that the Respondent had full knowledge of the Complainant's business and trademark at the time of

registration of the disputed domain name and had registered it in order to target the Complainant's CORALINE trademark.

The use to which the Respondent has put the disputed domain name in view of the Panel evidently amounts to bad faith registration and use within the meaning of paragraph 4(b)(iv) of the Policy.

As shown by the Complainant, the Respondent has used the disputed domain name to defraud Internet users looking for the Complainant through redirecting them to its own website promoting counterfeit Coraline merchandise.

The Complainant directly accused the Respondent of counterfeiting and while it is reasonable to expect that a legitimate business would evidently argue and defend against such serious allegations, the Respondent decided not to rebut or reject them, which is hardly a conduct of a legitimate reseller selling authentic goods to consumers. In addition, there is no information on the identity of the business behind the website at the disputed domain name and no information whatsoever that could suggest or confirm the business' authenticity.

Use of the disputed domain name to promote the sale of counterfeit goods is manifestly considered evidence of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)).

The fact that at the time of rendering of this decision the disputed domain names did not resolve to active website does not alter the Panel's findings (see section 3.3 of the [WIPO Overview 3.0](#)).

Accordingly, the Panel finds that paragraph 4(a)(iii) of the Policy is satisfied.

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 <coraline.shop> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: January 30, 2023