

ADMINISTRATIVE PANEL DECISION

YZ Productions Inc. v. Yati binti Lanang

Case No. D2023-0006

1. The Parties

The Complainant is YZ Productions Inc., United States of America (“United States”), represented by Aesthetic Legal, United States.

The Respondent is Yati binti Lanang, Malaysia.

2. The Domain Name and Registrar

The disputed domain name <rebeccazamolo.store> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 2, 2023. On January 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 6, 2023, 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 January 18, 2023, requesting clarification of the disputed domain name referred to in the Complaint. The Complainant filed an amendment to the Complaint on January 24, 2023.

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 January 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 21, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on March 6, 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

Since 2006, the Complainant has distributed online videos via YouTube, TikTok and other sites, and has operated an e-commerce store selling clothing, stickers and cosmetics, all under the mark REBECCA ZAMOLO. The Complainant currently has some 35 million YouTube and TikTok subscribers.

The Complainant owns United States trademark No. 6,090,463 for REBECCA ZAMOLO, filed on December 5, 2019, registered on June 30, 2020, in classes 3, 16, 25, and 41.

The Complainant operates a website at "www.rebeccazamolo.com".

The disputed domain name was registered on February 20, 2022.

As of December 30, 2022, the disputed domain name resolved to a website branded "The Best Store of Rebecca Zamolo" and "Rebecca Zamolo Store – The Official Merch", featuring pictures of Rebecca Zamolo (who features in the Complainant's videos) and offering for sale products similar to those sold on the Complainant's own site, including those branded with the "Rebecca Zamolo" name/logo.

5. Parties' Contentions

A. Complainant

The following is a summary of the Complainant's contentions.

As a result of its longstanding use, the REBECCA ZAMOLO Mark is a distinctive identifier associated with the Complainant and its goods and services.

The disputed domain name is identical or confusingly similar to the Complainant's trade mark, which it incorporates in its entirety.

The Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant has not authorised the Respondent to use its trade mark.

The Respondent has not used or made demonstrable preparations to use the disputed domain name for a *bona fide* offering of goods or services. On the contrary, the Respondent has used the disputed domain name to sell goods in direct competition with the Complainant.

There is no evidence that the Respondent has been commonly known by the disputed domain name.

The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The disputed domain name was registered and is being used in bad faith.

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 mark.

The Respondent had actual knowledge of the Complainant's famous mark, which predates the disputed domain name by more than four years. This is also obvious from the fact that the Respondent's website

offers identical goods to those of the Complainant and features pictures of the Complainant.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established registered and unregistered rights in the mark REBECCA ZAMOLO.

Disregarding the Top-Level Domain ("TLD") suffix, which is excluded from the comparison, the disputed domain name is identical to the Complainant's trade mark.

Accordingly, the Panel finds that the Complainant has established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

As explained in section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, for reasons explained in section 6C below, the Panel considers that the Respondent has used the disputed domain name to impersonate the Complainant in order to confuse, and profit from, Internet users seeking the Complainant's goods. Such use of the disputed domain name could not be said to be *bona fide*.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

The Panel finds that the Complainant has established a *prima facie* case of lack of rights or legitimate interests and there is no rebuttal by the Respondent.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel considers that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trade mark for the purpose of sale of competing products in accordance with paragraph 4(b)(iv) of the Policy.

First, the disputed domain name carries a high risk of implied affiliation as it is identical to the Complainant's trade mark - see section 2.5.1 of the [WIPO Overview 3.0](#).

Second, the Respondent has used the disputed domain name for a website that impersonates the Complainant including by describing itself as the "official" store for the Complainant's merchandise as well as by the prominent use of the Complainant's mark, logo and imagery on the Respondent's website and on the products for sale on the site.

For the above reasons, the Panel considers that the Complainant has established the third element of paragraph 4(a) 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, <rebeccazamolo.store>, be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: March 14, 2023