

ADMINISTRATIVE PANEL DECISION

Breitling SA v. DeEtte Key
Case No. D2023-3288

1. The Parties

The Complainant is Breitling SA, Switzerland, represented by IP Twins, France.

The Respondent is DeEtte Key, United States of America.

2. The Domain Name and Registrar

The disputed domain name <brietlings.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 31, 2023. On August 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 2, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 10, 2023, 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 August 14, 2023.

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 August 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 15, 2023.

The Center appointed Francine Tan as the sole panelist in this matter on October 3, 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, Breitling SA, is a Swiss company which was founded in 1884. It manufactures high-end chronographs, watches and related accessories and is known for its precision-made chronometers designed for aviators. The Complainant states that it has stores and distributors all over the world and maintains a reputation as one of the best high-end luxury watchmakers in the world.

The Complainant states that it has trade mark rights worldwide in the term “Breitling”, including but not limited to the following:

- (i) International trademark registration No. 279322 for , registered on January 31, 1964;
- (ii) International trademark registration No. 160212 for  BREITLING, registered on March 10, 1952; and
- (iii) European trademark registration No. 0613794 for  BREITLING registered on January 7, 1994.

The Complainant's official websites include “www.breitling.com”.

The disputed domain name <brietlings.com> was registered on June 28, 2023. As at the time of filing of the Complaint, the disputed domain name led to an inactive website.

5. Parties' Contentions

A. Complainant

- (i) The disputed domain name is confusingly similar to the Complainant's BREITLING trade mark in which it has rights. The disputed domain name wholly incorporates the BREITLING mark. The only difference between the disputed domain name and the Complainant's trade mark lies in the swapping of the letters “e” and “i” and the addition of the letter “s”.
- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. It has not acquired trade mark rights in the term “Breitling” or “Brietlings” and is not commonly known by the disputed domain name. The Complainant has not licensed or permitted the Respondent to use any of its trade marks or register the disputed domain name.
- (iii) The disputed domain name was registered and is being used in bad faith. A quick trade mark search would have revealed to the Respondent the existence of the Complainant and its BREITLING trade marks. The Complainant's BREITLING trade mark is well known and although the disputed domain name leads to an inactive website, that does not prevent a finding of bad faith registration and use. The Respondent very likely chose the disputed domain name because of its similarity to the Complainant's BREITLING mark.

B. Respondent

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

6. Discussion and Findings

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 trade mark or service mark in which the Complainant has rights.

A registered trade mark provides a clear indication that the rights in the mark shown on the trade mark registration certificate belong to the stated owner. The Complainant has provided evidence that it owns the BREITLING trade mark and has rights therein as a result of very long use.

It is well-established that “[a] domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element” (see section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The disputed domain name incorporates the Complainant’s BREITLING mark in its entirety, albeit mis-spelt and with the additional letter “s”. The disputed domain name contains sufficiently recognizable aspects of the relevant mark. The Panel is persuaded that this is a typosquatting attempt by the Respondent.

Further, it is a well-established principle that the Top-Level Domain in a domain name is a standard registration requirement and is to be disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11.1).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the BREITLING trade mark in which the Complainant has rights. Paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Complainant has provided evidence that it has owned rights in the BREITLING trade mark long before the date that the disputed domain name was registered. It is also evident that the Complainant is not affiliated with, nor has it licensed or otherwise permitted the Respondent to use the Complainant’s BREITLING trade mark, or a mis-spelt version thereof. There is no evidence that the Respondent is commonly known by the disputed domain name.

Once a complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name in dispute, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the domain name ([WIPO Overview 3.0](#), section 2.1). The Complainant’s *prima facie* case has not been rebutted by the Respondent.

The Panel therefore concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The Panel is persuaded in this case that the Respondent targeted the Complainant and its well-established BREITLING trade mark as the disputed domain name is confusingly similar to the Complainant’s trade mark.

The disputed domain name incorporates a variation of the Complainant’s BREITLING mark and this is a typical “typosquatting” case. It is foreseeable that some Internet users may mis-type and make an error in the sequence of the letters “e” and “i” and/or add an “s” by mistake, when searching for the Complainant’s website. UDRP panels in earlier decisions have ruled that in such circumstances “a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant’s site to the Respondent’s site” (see *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. [D2006-1095](#)).

Panels in earlier UDRP cases have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding. As is stated in section 3.3 of the [WIPO Overview 3.0](#):

“While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.”

The Panel makes the following observations in this case:

- (a) the Complainant’s BREITLING mark is highly reputable and distinctive;
- (b) the Respondent failed to submit a Response; and
- (c) any good faith use of the disputed domain name is unlikely. The BREITLING mark is so famous as a luxury watch brand that it would be extremely difficult to believe any claim that the Respondent’s choice of the disputed domain name was wholly innocent and coincidental. The Panel believes that this is a typosquatting case intended to target the reputable BREITLING brand. Moreover, the Respondent has failed to explain its choice of domain name.

The Panel therefore concludes that the Respondent registered and used the disputed domain name in bad faith. Accordingly, 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 <brietlings.com> be transferred to the Complainant.

/Francine Tan/

Francine Tan

Sole Panelist

Date: October 17, 2023