

ADMINISTRATIVE PANEL DECISION

Roeckl Sporthandschuhe GmbH & Co.KG v. LiWenzhi
Case No. D2023-3808

1. The Parties

Complainant is Roeckl Sporthandschuhe GmbH & Co. KG, Germany, represented by Lorenz Seidler Gossel, Germany.

Respondent is LiWenzhi, China.

2. The Domain Name and Registrar

The disputed domain name <roecklsportsoff.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 12, 2023. On September 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 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 (WhoisSecure) and contact information in the Complaint. The Center sent an email communication to Complainant on September 18, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on September 18, 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 Respondent of the Complaint, and the proceedings commenced on September 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 16, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 17, 2023.



The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on November 9, 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

Complainant is a glove manufacturer and retailer based in Munich, Germany with over 180 years of expertise with a portfolio of several sports selling products worldwide. Complainant's business runs under the trademarks ROECKL and ROECKL SPORTS.

Complainant owns a wide portfolio of trademarks such as:

Registration No.	Trademark	Jurisdiction	International Class	Date of Registration
005881347		European Union	28	April 23, 2010
1571948		International Trademark	18, 25, 28	December 15, 2020
018347250	ROECKL SPORTS	European Union	18, 25, 28	March 27, 2021

The disputed domain name was registered on April 10, 2023, and, according to the evidence submitted by Complainant, resolved to a website, seemingly an online shop, that had a "Contact Us" page displaying a variation of Complainant's figurative trademark where the visitor could potentially share personal information. The disputed domain name currently resolves to a webpage without content.

5. Parties' Contentions

A. Complainant

Complainant pleads that the disputed domain name is confusingly similar to the registered trademarks ROECKL and ROECKL SPORTS, since it fully incorporates Complainant's trademarks ROECKL and ROECKL SPORTS.

Complainant affirms that the disputed domain name incorporates the trademarks ROECKL and ROECKL SPORTS in their entirety with the addition of the term "off" – which would not avoid a confusingly similarity between the disputed domain name and Complainant. The generic Top-Level Domain ("gTLD") ".com" does not affect the assessment of confusing similarity between the disputed domain name and trademark.

Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant's trademarks ROECKL and ROECKL SPORTS, fulfilling paragraph 4(a)(i) of the Policy and paragraphs 3(b)(viii) and 3(b)(ix)(1) of the Rules.

In addition, Complainant states that Respondent does not have any rights or legitimate interests in respect of the disputed domain name, nor is Respondent commonly known by the disputed domain name. Further, Respondent has not been authorized, or licensed to use Complainant's trademarks ROECKL and ROECKL SPORTS as a domain name nor is Respondent associated with Complainant.

Complainant observes that Respondent does not use the disputed domain name to promote a *bona fide* offering of goods or services, nor to support a noncommercial legitimate use. Complainant claims Respondent used the disputed domain name to resolve to a website advertising products and collections of Complainant, using the logo and images without permission.

This way, Complainant states that no rights or legitimate interests could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules have been fulfilled.

Finally, Complainant states that Respondent (i) was aware of the trademarks ROECKL and ROECKL SPORTS at the time of registration; (ii) used the term “off” alluding to Complainant’s business; (iii) used the disputed domain name to supposedly offer for sale original products of Complainant seeking to give the impression of a non-existent connection with Complainant; (iv) provided a false business address and a variation of Complainant’s figurative trademark on the website related to the disputed domain name.

Thus, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraph 4(b)(iv) of the Policy.

Accordingly, Complainant requests the cancellation of the disputed domain name.

B. Respondent

Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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.

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel’s decision shall be based upon the Complaint.

A. Identical or Confusingly Similar

Complainant has duly proven that it owns prior registered and unregistered rights for trademarks ROECKL and ROECKL SPORTS, and that the disputed domain name includes the trademarks ROECKL and ROECKL SPORTS in their entirety with the addition of the term “off”.

The addition of the term “off” does not prevent a finding of confusing similarity with Complainant’s trademarks ROECKL and ROECKL SPORTS – since the trademarks ROECKL and ROECKL SPORTS are fully integrated, and recognizable, in the disputed domain name.

The disputed domain name consists also of the 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 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

Thus, the Panel finds that the disputed domain name is confusingly similar to Complainant's trademarks ROECKL and ROECKL SPORTS, and so the requirement of the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the [WIPO Overview 3.0](#) as follows: "[w]hile 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 relevant evidence demonstrating 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 this case, noting the facts and contentions listed above, the Panel finds that Complainant has made out a *prima facie* case showing that Respondent lacks rights or legitimate interests in the disputed domain name, so the burden of production shifts to Respondent. As Respondent has not replied to Complainant's contentions, the Panel has considered Complainant's un rebutted *prima facie* case to be sufficient to demonstrate that Respondent has no rights or legitimate interests in the disputed domain name.

It should be noted that Respondent's lack of response (in the broader context of the case), according to the above-mentioned guidelines from [WIPO Overview 3.0](#), section 2.1, suggests that Respondent has no rights or legitimate interests in the disputed domain name that it could put forward.

Furthermore, Respondent has not used the disputed domain name in the context of a *bona fide* offering of goods or services that could demonstrate rights or legitimate interests, since the evidence shows that the disputed domain name currently resolves to a website without content, as verified by the Panel. Moreover, given the previous use of the disputed domain name resolving to a website showcasing Complainant's logo, as proven by Annex 8 of Complaint, giving the appearance of an official website of Complainant is inherently misleading and the term "off" can be recognized by Complainant's customers as an identification for one of Complainant's official websites dedicated to selling its glove goods with a discount and it may be seen as effectively impersonating or suggesting some connection to Complainant, which is not the case, and accordingly, cannot constitute fair use.

Therefore, the Panel finds that the requirement of the second element of paragraph 4(a) of the Policy is also satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of circumstances that, without limitation, shall be evidence of registration and use of a domain name in bad faith.

Respondent has registered the disputed domain name that fully incorporates Complainant's trademarks ROECKL and ROECKL SPORTS, plus the addition of the term "off", which does not prevent a finding of confusing similarity; on the contrary, it actually reinforces the risk of confusion, as the term "off" may be understood as a short version of "off-price" and it gives the idea of a website with discounted prices, such as a virtual outlet.

The Panel finds that it was duly demonstrated that Respondent was likely aware of Complainant's rights to ROECKL and ROECKL SPORTS at the time of the registration, as Complainant's trademark is widely known and enjoys an international reputation. Moreover, the previous use of the disputed domain name showcasing Complainant's logo (see Annex 8 of Complaint), affirms Respondent's knowledge of Complainant's trademarks and a clear intent to take a free ride on Complainant's renowned trademarks.

Accordingly, the Panel finds that Respondent has intentionally attempted to attract Internet users to its website by creating likelihood of confusion with Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of the website. The Panel notes that there is evidence pointing that Respondent could potentially collect visitors' information via a "Contact Us" page.

Further, the Panel notes that the disputed domain name currently resolves to a website without content. Previous UDRP panels have concluded in similar cases that such non-use does not prevent a finding of bad faith by the passive holding doctrine. See *BPCE v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / pascale kiss, cherhgi*, WIPO Case No. [D2021-1251](#) and section 3.3 of the [WIPO Overview 3.0](#).

Moreover, it should be noted that, in the circumstances, Respondent's lack of response further reinforces that the disputed domain name most likely was registered and is being used in bad faith. In this sense, the panel found in *Instagram, LLC v. Registration Private, Domains By Proxy, LLC / Alexis Kane*, WIPO Case No. [D2021-0912](#) that:

"The following factors were also considered by the Panel as indicative of bad faith registration and use of the disputed domain name: (i) the Respondent's lack of response to the Complaint. See, *Awesome Kids LLC and/or Awesome Kids L.L.C. v. Selavy Communications*, WIPO Case No. [D2001-0210](#); (ii) the Respondent's lack of response to the cease and desist letter sent by the Complainant. See, e.g. *Intesa Sanpaolo S.p.A. v. Ekkert Ida*, WIPO Case No. [D2018-2207](#); (iii) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain name as per paragraph 4(b) of the Policy."

In light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. Therefore, the requirement of the third element of paragraph 4(a) 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, <roecklsportsoff.com>, be cancelled.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: November 23, 2023