

ADMINISTRATIVE PANEL DECISION

ReistorLife LLP v. mocheng bai, zhiyunchuang
Case No. D2023-5359

1. The Parties

The Complainant is ReistorLife LLP, India, represented by Eshwars, Advocates- House of Corporate and IPR Laws, India.

The Respondent is mocheng bai, zhiyunchuang, China.

2. The Domain Name and Registrar

The disputed domain name <risetor.com> (the “Domain Name”) 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 27, 2023. On December 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 27, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 28, 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 January 3, 2024.

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 January 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2024. The Respondent sent an email communication to the Center on December 29, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on February 2, 2024. 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 an Indian company that since at least 2020 has manufactured and retailed a variety of clothing and apparel products under a trademark consisting of a slightly stylized form of REISTOR (the "REISTOR Mark"). The Complainant promotes its products through various means including from numerous websites containing "reistor" including its website at "www.reistor.com" ("Complainant's Website"). The Complainant has a significant and growing international presence.

The Complainant has held a trademark registration for the REISTOR Mark in various jurisdictions since 2021 notably having held an Indian trademark registration for the REISTOR Mark since December 30, 2020 for clothing products in class 25 (registration No. 4,792,392).

The Domain Name was registered on September 13, 2023. The Domain Name resolves to a website (the "Respondent's Website") that purports to offer clothing products in direct competition with the Complainant. The Respondent's Website directly copies copyrighted material from third party websites and the Complainant has received numerous complaints from third parties who have been confused between the similarities between the Complainant and the Respondent and have placed orders with the Respondent but have not received any goods.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, the Complainant contends that:

- a) It is the owner of the REISTOR Mark, having registered the REISTOR Mark in various jurisdictions. The Domain Name is confusingly similar to the REISTOR Mark as it consists of a minor misspelling of the REISTOR Mark, merely moving the letter "e" two places forward in the REISTOR Mark and adding the ".com" generic Top-Level Domain ("gTLD").
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the REISTOR Mark. The Respondent is not commonly known by the REISTOR Mark, nor does it use the Domain Name for a bona fide purpose or legitimate noncommercial purpose. Rather the Respondent is using the Domain Name to pass off as the Complainant for commercial gain by purporting to offer clothing in direct competition with the Complainant. Such use is not a legitimate use of the Domain Name. Furthermore, the Respondent is committing fraud on confused consumers and reproducing copyrighted material from third party websites on the Respondent's Website.
- c) The Domain Name was registered and is being used in bad faith. The Respondent is using the Domain Name to divert Internet users searching for the Complainant to the Respondent's Website to disrupt the Complainant's business and divert Internet users searching for the Complainant to a competing website for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions. In the Respondent's email communication of December 29, 2023, the Respondent stated "I don't quite understand what the email means. Can you explain to me what it means?".

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

A domain name which consists of a misspelling of a trademark (or at least the portion of the mark that can be incorporated into a domain name, the minor stylization of the REISTOR Mark being irrelevant) is considered by panels to be confusingly similar to the relevant mark for the purpose of the first element. Here the reordering of the letters "eis" to the letters "ise" creates a minor misspelling of the Complainant's trademark and the Panel finds that REISTOR Mark remains recognizable within the Domain Name. [WIPO Overview 3.0](#), section 1.9.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the respondent may demonstrate rights or legitimate interests in a disputed domain name.

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 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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.

- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.

- the Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The Respondent's use of the Domain Name to resolve to a webpage purporting to offer clothing in direct competition with the Complainant does not amount to use for a bona fide offering of goods and services. This is supported by the uncontested evidence in the Complaint that the Respondent's Website actively copies material from third party websites and commits fraud on consumers confused by the similarities between the REISTOR Mark and the Domain Name. It appears that the purpose behind the Respondent's Website is to encourage visitors, under the impression that they are dealing with the Complainant, to purchase clothing purportedly offered by the Respondent (which it may or may not provide) such conduct not being bona fide.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website or location or of a product or service on the Respondent's Website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that the Respondent must have been aware of the Complainant and its reputation in the REISTOR Mark at the time the Respondent registered the Domain Name. The Respondent has provided no explanation, and neither it is immediately obvious, why an entity would register a domain name consisting of a minor misspelling of the REISTOR Mark and redirect it to a website purportedly offering clothing products unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its REISTOR Mark.

The Respondent's Website purported to offer clothing products in direct competition with the Complainant. Noting the coined nature of the REISTOR Mark, the absence of any explanation for the registration and the additional material indicating generally fraudulent behavior on the part of the Respondent, the Panel considers that the most likely explanation is that the Respondent is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the REISTOR Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 Domain Name <risetor.com> be cancelled.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: February 14, 2024