

ADMINISTRATIVE PANEL DECISION

COSRX Inc. v. Fahim Hosain
Case No. D2024-4040

1. The Parties

The Complainant is COSRX Inc., Republic of Korea (the), represented by KAI IP Law LLC, Republic of Korea (the).

The Respondent is Fahim Hosain, Bangladesh.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 2, 2024. On October 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 2, 2024, 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 (Anonymous / Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 4, 2024, 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 October 7, 2024.

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 October 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 27, 2024. Respondent sent email communications to the Center on several occasions on October 14, 2024, October 21, 2024, and November 19, 2024. Upon request of the Complainant, the proceeding was suspended on October 22, 2024, and reinstated on November 20, 2024, with a Response due date of November 27, 2024.

Pursuant to paragraph 6 of the Rules, on November 28, 2024, the Center informed the Parties that it would proceed with the panel appointment process.

The Center appointed Olga Zalomyi as the sole panelist in this matter on December 6, 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 a Korean beauty brand. The Complainant owns multiple trademark registrations for the COSRX mark, such as:

- Korean trademark registration No. 45-0053095 for the COSRX mark, registered on January 5, 2015;
- International trademark registration No. 1334993 for the COSRX mark, registered on January 12, 2017;
- International trademark registration No. 1489899, for the COSRX mark, registered on August 10, 2019.

The Complainant owns several domain names that include its COSRX trademark, including <cosrx.co.kr> and <cosrx.com>, registered in 2006 and 2007, respectively.

The Respondent registered the disputed domain name on July 31, 2023. The disputed domain name directs to an online store selling purported COSRX cosmetics in Bangladesh. The English language website displays the Complainant's COSRX trademark in capital letters at the top of the home page with the word "Bangladesh" appearing in lower-case letters underneath the trademark. The Website describes "COSRX Bangladesh" as "the largest online platform for skin care products from South Korea".

The Respondent's October 14, 2024 email expressed willingness to transfer the domain to the Complainant, as indicated by the statement: "transfer the domain to cosrx". This led to the Complainant requesting a suspension of the proceedings on October 21, 2024, a request to which the Respondent responded affirmatively by saying "thank you". However, on November 19, 2024, the Respondent's position shifted. Responding to the Complainant's request to lift the suspension, the Respondent stated: "I will not sign any kind of document because I bought the domain legally. When the domain expires, you take it".

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 disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its well-known COSRX trademark, as it incorporates the trademark in full. The Complainant further argues that the inclusion of the term "bangladesh" does not prevent a finding of confusing similarity between the disputed domain name and its trademark. Additionally, the Complainant contends that the presence of the generic Top-Level Domain ("gTLD") ".com" does not eliminate the confusing similarity.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name because the Respondent is neither affiliated nor authorized by the Complainant to use its well-known COSRX trademark in the disputed domain name.

The Complainant claims that the Respondent registered the disputed domain name in bad faith, citing the fame and distinctiveness of the Complainant's trademark. The Complainant asserts that the Respondent registered the disputed domain name with the Complainant's trademark in mind and engages in consumer deception by impersonating the Complainant. According to the Complainant, the Respondent's website prominently displays the Complainant's trademark and features images of the Complainant's products, allegedly copied from the Complainant's official website. The Complainant further argues that the Respondent's actions demonstrate bad faith, as the disputed domain name was registered to achieve financial gain through a website designed to create a false impression of being affiliated with the Complainant.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the disputed domain name:

- (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

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.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The inclusion of the gTLD ".com" is typically disregarded in the context of the confusing similarity assessment, being a technical requirement of registration. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms, here, the geographic term "bangladesh", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

The Panel concludes that the Respondent lacks rights or legitimate interests in the disputed domain name. The evidence indicates that the Respondent is not commonly known by the disputed domain name. Nor has he been granted permission by the Complainant to use its trademark in the disputed domain name. Furthermore, the Respondent is neither engaging in legitimate noncommercial or fair use of the disputed domain name, nor offering bona fide goods or services, as the disputed domain name points to an online store that purportedly sells the Complainant’s products and falsely suggests an affiliation with the Complainant.

Previous UDRP panels have recognized that resellers or distributors using domain names containing the complainant’s trademark to undertake sales of the complainant’s goods may be making a bona fide offering of goods and thus have rights or legitimate interests in such domain names in some situations.

Outlined in the *Oki Data* case,¹ the following cumulative requirements must be satisfied for the respondent to make a bona fide offering of goods and services:

- “(i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant’s relationship with the trademark holder;
- and
- (iv) the respondent must not try to corner the market in domain names that reflect the trademark.”

Here, the disputed domain name directs users to the online store that offers for sale the purported Complainant’s goods. The website provided no information about the Respondent’s lack of affiliation with the Complainant other than stating that it is “COSRX Bangladesh”. Instead, the website describes “COSRX Bangladesh” as “the largest online platform for skin care products from South Korea”; such description, in addition to other factors such as the apparent use of the Complainant’s product images, falsely suggests that the website is operated by or affiliated with the Complainant. Therefore, the Respondent failed to satisfy the *Oki Data* test.

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.

¹ See [WIPO Overview 3.0](#), section 2.8.1; and *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

In the present case, the Panel notes that the Respondent registered the disputed domain name incorporating the Complainant's COSRX trademark and the geographic term "bangladesh" many years after the Complainant's first trademark registration. Noting this composition, the Respondent's lack of rights or legitimate interests in the disputed domain name, the absence of a credible explanation for choosing the disputed domain name, the Respondent's use of the Complainant's trademark and product images on its website, indicate that the disputed domain name was registered in bad faith.

The UDRP establishes that, for purposes of paragraph 4(a)(iii), bad faith registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to 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. See Policy, paragraph 4(b)(iv).

Prior UDRP panels have found "the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent's commercial benefit, even if unsuccessful, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name, [...] (vi) absence of any conceivable good faith use." [WIPO Overview 3.0](#), section 3.1.4.

Here, the Respondent who has no rights to or legitimate interests in the disputed domain name, registered the disputed domain name that incorporates the Complainant's trademark along the geographic term "bangladesh" to direct Internet users to a website that offers for sale the purported Complainant's goods. The only information about the owner of the website is that "COSRX Bangladesh" as "the largest online platform for skin care products from South Korea". Such use creates an impression of a regional website of the Complainant. Therefore, the Panel concludes that the Respondent registered and is using the disputed domain name to intentionally attempt to attract, for commercial gain, the Internet users to the Respondent's 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 the Respondent's website or location, or of a product or service on the Respondent's website or location.

The Panel finds that the Complainant has established the third element 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 <cosrxbangladesh.com> be transferred to the Complainant.

/Olga Zalomiy/

Olga Zalomiy

Sole Panelist

Date: December 19, 2024