

ADMINISTRATIVE PANEL DECISION

Dirk Rossmann GmbH v. Wang Dong
Case No. D2024-4456

1. The Parties

The Complainant is Dirk Rossmann GmbH, Germany, represented by Horak.Rechtsanwälte Partnerschaft mbB, Germany.

The Respondent is Wang Dong, China.

2. The Domain Name and Registrar

The disputed domain name <isanade.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 26, 2024. On October 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 30, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 November 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 5, 2024.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on December 12, 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 company based in Germany.

The Complainant owns the following trademark registration:

- International trademark registration No. 1556285 for ISANA registered on June 9, 2020, in classes 3, 5, 8, 21, 25, 28, and 35.

The Complainant commercializes cosmetics under the trademark ISANA.

The disputed domain name was registered on July 30, 2024.

The disputed domain name is connected to a website displaying the Complainant's trademark ISANA, the Complainant's logo form, and purporting to provide information on the Complainant's products.

The contact information mentioned in the general terms and conditions available on the website does not correspond to any real address. The Complainant's attempts at contacting the Respondent by email failed.

The Respondent's website contains also wrong information about the stores where certain products bearing the Complainant's trademark may be purchased: with respect to one product, the Respondent mentions that the product at issue is available only in the stores of a competitor of the Complainant.

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 includes the Complainant's trademark ISANA, with the addition of the country code "de", referring to Deutschland (Germany) where the Complainant has its place of business.

The Complainant further contends that the Respondent is not commonly known by the disputed domain name and uses the disputed domain names with the intention to mislead and divert consumers or to tarnish the Complainant's trademark. In particular, the Respondent displays products of the Complainant including the trademark on its website. The Complainant considers accordingly that the Respondent does not have rights or legitimate interests in the disputed domain name.

Finally, the Complainant contends that the disputed domain name has been used and registered in bad faith. According to the Complainant, a visitor of the Respondent's website will be under the impression that it receives information on the Complainant's products, as the website displays the Complainant's trademark ISANA and the Complainant's products. The Complainant represents accordingly that the Respondent used the disputed domain name to create a likelihood of confusion with the Complainant's trademark and to disrupt the Complainant's business.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (ii) the domain name registered by the respondent 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.

Although the addition of other terms, here the letters "de", may bear on assessment of the second and third elements, the Panel finds the addition of such letters 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 Respondent purportedly provides information on products of the Complainant. According to the general terms and conditions, the Respondent appears to be operating an on-line store, and thus to be selling the Complainant's products. This is unclear however as the website does not mention any prices. That said, the

Respondent indicated false contact details in its general terms and conditions, and provides wrong information about the stores where one of the Complainant's product is available. Furthermore, the Respondent's website does not include any disclosure of its relationship with the Complainant. Even if the Respondent did sell the Complainant's goods, its use of the disputed domain name would not meet the requirements of the Oki Data test. [WIPO Overview 3.0](#), section 2.8. Moreover, given the composition of the disputed domain name and content of the website to which it resolves, Internet users are likely to suspect the disputed domain name to be hosted by either the Complainant or a Germany-based affiliate, and such misleading association cannot constitute fair use under the circumstances here.

Finally, the Respondent did not file a Response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

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.

In the present case, the Panel notes that the Respondent used the disputed domain name in connection with a website purportedly providing information, and possibly offering for sale, Complainant's products. In view of this use, it is highly unlikely that the Respondent registered the disputed domain name without knowledge of the Complainant's trademark. The Panel therefore accepts that the disputed domain name was registered in bad faith.

The record does not establish whether the Respondent was actually selling the Complainant's products. This appears unlikely in view of the fact that the Respondent provided false contact information in the general terms and conditions available on its website.

The Respondent used prominently the trademark and the logo of the Complainant on its website without any indication regarding its relationship to the Complainant. Such use is apt to create the false impression that the website is operated or endorsed by the Complainant, thus misleading, for commercial gain, consumers looking for the Complainant's website. Accordingly, the Panel finds it likely that the Respondent intentionally created a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. This is a circumstance of use of a domain name in bad faith according to paragraph 4(b) of the Policy. For the reasons set out above, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith, and that the Complainant has satisfied the condition set forth in paragraph 4(a)(iii) of the Policy.

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 <isanade.com> be transferred to the Complainant.

/Anne-Virginie La Spada/

Anne-Virginie La Spada

Sole Panelist

Date: December 26, 2024