

ADMINISTRATIVE PANEL DECISION

CONTINUUS - PROPERZI S.P.A. v. guoli pan

Case No. D2024-4534

1. The Parties

Complainant is CONTINUUS - PROPERZI S.P.A., Italy, represented by Cervato Law & Business s.r.l. Società tra Avvocati, Italy.

Respondent is guoli pan, Cambodia.

2. The Domain Name and Registrar

The disputed domain name <continuus-properzi.com> is registered with DropCatch.com 801 LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 5, 2024. On November 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 6, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to Complainant on November 7, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 8, 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 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. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 5, 2024.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on December 10, 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

Complainant is an engineering company based in Italy with a history that dates back to 1947. It is the promoter and inventor of the continuous casting method and direct rolling of non-ferrous metals to produce wire rod/wire. It is also engaged in the design, sale, construction, installation, and start-up of plants for recycling copper scrap to obtain ingots and wire rod.

Complainant is owner of registrations throughout the world for the CONTINUUS PROPERZI trademark, and also of domain names containing said trademark such as <properzi.com>, <properzi.it>, <continuusproperzi.com> and <continuus-properzi.it>.

Some examples of Complainant's trademarks registrations for CONTINUUS PROPERZI can be found below:

Registration	Trademark	Jurisdictions	International Class	Registration Date
2020000028597	CONTINUUS PROPEZI	Italy	7, 11, 37 and 42	October 22, 2021
018229484	CONTINUUS PROPEZI	European Union	7, 11, 37, and 42	September 11, 2020
UK00918229484	CONTINUUS PROPEZI	United Kingdom	7, 11, 37, and 42	September 11, 2020
1557177	CONTINUUS PROPEZI	International Registration, designating China, Russian Federation, and United States of America	7, 11, 37, and 42	August 7, 2020

The disputed domain name was registered on March 10, 2024 and resolves to a pornographic content website displaying images/videos of this nature, as well as links to other pornographic websites and content in general.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Complainant argues that the disputed domain name is confusingly similar to the trademark CONTINUUS PROPERZI, so much so that the disputed domain name is highly and severely confusingly similar to their owned trademark.

Complainant argues that the comparison between the disputed domain name and Complainant's company name is irrefutable, going as far as reproducing the hyphen present in the name "Continuus-Properti". It can also be seen by comparing domain names owned by Complainant, since the disputed domain name is

confusingly similar to <continuusproperzi.com> and with <continuus-properzi.it>. Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant's trademark CONTINUUS PROPERZI, fulfilling paragraph 4(a)(i) of the Policy and paragraphs 3(b)(viii) and (b)(ix)(1) of the Rules.

Moreover, Complainant contends that Respondent has no relationship with Complainant and that no business or activities have ever been conducted between them.

To Complainant it is clear that Respondent is making an illegitimate, noncommercial and unfair use of the disputed domain name with the intent for commercial gain misleadingly to divert consumers and/or to harm Complainant's business reputation, since the use of the disputed domain name is an unsafe porn website.

In this manner, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, fulfilling paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix) of the Rules.

Complainant contends that the intentions of Respondent's registration is to take unfair advantage or otherwise abuse Complainant's trademarks, company name, and the other distinctive signs, attempting to disrupt its business, primarily under a reputational point of view.

Complainant asserts that, through the acquisition of the disputed domain name via auction, Respondent should have known that it was used for one of Complainant's official websites, and therefore this could be an occasion for harming Complainant itself with the reported use. Also, Complainant believes Respondent must be taken to have known of the reputation of its well-established trademarks and intended to profit from diverting Internet users by its current use.

In sum, Complainant believes it is more likely than not that Respondent registered the disputed domain name in the knowledge of Complainant's rights, and with the intent to target these. Complainant also affirms that Respondent could have been willfully blind to Complainant's interests when it acquired the disputed domain name that it knew to have a history without observing Complainant's previous history and rights.

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 paragraphs 4(a)(iii) and 4(b) of the Policy and paragraph 3(b)(ix)(3).

Accordingly, Complainant requests transfer of the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to 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

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.

Based on the available record, the Panel finds 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 trademark CONTINUUS PROPERZI is reproduced within the disputed domain name. Accordingly, the disputed domain name <continuus-properzi.com> is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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 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 that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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 notes that Complainant argues that Respondent is using the disputed domain name to create confusion among Internet users and create the impression that Respondent's website is affiliated with or endorsed by Complainant, who are then surprised by encountering pornographic content. Respondent has failed to refute said claim. Moreover, the composition of the disputed domain name by itself carries a risk of implied affiliation to Complainant, and as such, cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, Respondent is not entitled to any trademark, trade name, or any other right associated with the disputed domain name. Additionally, Respondent has not been authorized by Complainant to use the CONTINUUS PROPERZI trademark, and there is no commercial relationship between the Parties. Respondent is not recognized by the disputed domain name, and the Panel notes that the disputed domain name resolves to a website in which Respondent presents a pornographical business that has no relation whatsoever to Complainant's company and that could potentially harm their reputation. In light of these circumstances, the Panel finds that Respondent does not have any no rights or legitimate interests.

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 Respondent has registered the disputed domain name that is identical to Complainant's trademark CONTINUUS PROPERZI (save for a hyphen), as explained above in 6.A. Also, based on the available record, the Panel notes that Respondent has no affiliation with Complainant and the trademark CONTINUUS PROPERZI, nor has it sought authorization or a license to utilize the referred trademarks. Respondent also does not own any trademarks containing the term "Continuus Properzi" or any relating terms.

Furthermore, considering Complainant's significant online presence, Respondent knew or should have known of the existence of Complainant's prior trademark rights and domain names, which were matters of public record, before owning the disputed domain name. Also, Respondent appears to have shown a clear lack of diligence by acquiring the disputed domain name at an auction yet appearing oblivious to Complainant's rights. Thus, Respondent must have had knowledge of Complainant's pre-existing rights to the CONTINUUS PROPERZI trademark and should also have known about Complainant's prior domain names such as <properzi.com>, <properzi.it>, <continuusproperzi.com>, and <continuus-properzi.it>.

It is established that Respondent had the responsibility to verify the existence of the referred trademarks. Therefore, it may be inferred that the acquisition of the disputed domain name was intentionally done with the aim of profiting from the reputation of Complainant's trademark and business name "Continuus Properzi". Respondent's action creates a likelihood of confusion among Internet users, considering the use of the disputed domain name that is almost identical to Complainant's trademark and business name to point to a website in which pornographic content is available.

The website which the disputed domain name resolves to is characterized by pornographic content and disposes links to other websites of the same nature, a business/service that is nothing alike to the services provided by Complainant and could potentially harm their business. Panels have previously concluded that the use of pornographic content in connection to a complainant's trademark can indicate bad faith – see *DFDS A/S v. qin xian sheng*, WIPO Case No. [D2021-3708](#):

"Furthermore, the use of a domain name to tarnish a complainant's trademark, including for commercial purposes in connection with pornographic content, constitutes evidence of a respondent's bad faith. [WIPO Overview 3.0](#), section 3.12. See *Red Bull GmbH v. Whois Agent, Domain Protection Services, Inc. / esco escortlar, escort sitesi*, WIPO Case No. [D2017-1639](#) (finding the respondent's use of the domain for a pornographic website constituted 'a strong indication of bad faith registration and use', because it showed respondent's main purpose was 'to create a likelihood of confusion among customers and/or to tarnish the Complainant's RED BULL trademark for commercial gain or any other illegitimate benefit'); *Bank of Jerusalem Ltd. v. Shek Cheung Chung*, WIPO Case No. [D2017-1153](#) (finding bad faith where the domain resolved to a website 'at which adult content and links to websites at which pornographic contact [was] being offered, tarnishing Complainant and its trademark, and for which Respondent [was] likely receiving commercial gain')."

The Panel understands that the use practiced by Respondent in the disputed domain name, according to evidence brought by Complainant, indicates Respondent is using the disputed domain name to purposes which could potentially subvert Complainant's already established reputation.

In accordance with paragraph 4(b)(iii) of the Policy, which states "you have registered the domain name primarily for the purpose of disrupting the business of a competitor", it is clear that the acquisition and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the circumstances of the present case allow for a finding of bad faith in the acquisition and use of the disputed domain name, considering that Respondent would either obtain commercial gain by using a confusingly similar name to Complainant's trademark, or harm the company's reputed trademarks and signals. Otherwise, Respondent should have been aware of Complainant's rights on the trademark CONTINUUS PROPERZI because of its acquisition on an auction which evidently placed the burden of diligence on Respondent.

Lastly, the Panel finds it is relevant that Respondent has not provided any evidence of good faith registration or use, or otherwise participated in this dispute.

Based on the available record, the Panel finds that 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 <continuus-properzi.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: December 30, 2024