

ADMINISTRATIVE PANEL DECISION

SAVE THE DUCK S.P.A. v. zheng zhou

Case No. D2024-4819

1. The Parties

The Complainant is SAVE THE DUCK S.P.A., Italy, represented by Studio Legale de Vietro, Italy.

The Respondent is zheng zhou, China.

2. The Domain Name and Registrar

The disputed domain name <savetheduck-es.com> (the “Domain Name”) is registered with Cosmotown, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 21, 2024. On November 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 23, 2024, 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 (COSMOTOWN, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 25, 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 amended Complaint on November 25, 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 November 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 17, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on December 20, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant produces and markets clothing and accessories under the brand SAVE THE DUCK. It has received awards for its commitment to protection of animals and environment.

The Complainant has marketed its brand in fashion magazines and registered numerous trademarks, such as International Trademark no. 1448950 registered on November 16, 2018, in classes 3, 16, 18, 25, and 28.

The Domain Name was registered on September 12, 2024. The Domain Name has resolved to a website that unauthorized purports to sell the Complainant's products and/or counterfeited versions of the same.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Name is confusingly similar to the Complainant's trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in the Domain Name. The Complainant has not authorized the Respondent to register the Domain Name. The Respondent has registered the Domain Name to attempt to attract Internet users to its websites for financial gain.

The Complainant believes the Respondent knew of the Complainant and registered the Domain Name to generate financial gain by creating a likelihood of confusion with the Complainant's trademark. The Respondent is exploiting the risk of confusion with the Complainant's trademark.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

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 Domain Name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has established that it has trademark rights. In this case, the Domain Name incorporates the Complainant's trademark with the addition of "-es". The addition does not prevent a finding of confusing similarity between the Domain Name and the trademark. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"); see [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which a 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.

The Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or 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. On the contrary, the Respondent’s use is evidence of bad faith, see below. Moreover, the Panel notes that the composition of the Domain Name carries a risk of implied affiliation with the Complainant.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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 Respondent knew of the Complainant when the Respondent registered the Domain Name. It follows from the composition and use of the Domain Name. The documented use of the Domain Name is further evidence of bad faith. The Respondent falsely purports to be the Complainant or authorized by the Complainant. The Respondent does not meet the requirements for legitimate reselling. See [WIPO Overview 3.0](#), Section 2.8.1.

The Respondent appears to have registered a Domain Name confusingly similar to the Complainant’s trademark to drive Internet traffic to the Respondent’s webpage. See paragraph 4(b)(iv) of the Policy.

Based on the available record, 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 the Domain Name <savetheduck-es.com> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: December 26, 2024