

ADMINISTRATIVE PANEL DECISION

Sparks Exhibits Holding, LLC v. Aiyana Kulas
Case No. D2024-4918

1. The Parties

The Complainant is Sparks Exhibits Holding, LLC, United States of America (“United States” or “U.S.”), represented by Vedder Price P. C., United States.

The Respondent is Aiyana Kulas, United States.

2. The Domain Name and Registrar

The disputed domain name <strategic-sparks.com> (the “Disputed Domain Name”) is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 27, 2024. On November 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 29, 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 (DATA REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 29, 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 December 2, 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 December 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 27, 2024.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on January 6, 2025. 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 offers professional services to its clients, including branding, strategy and marketing, custom design and manufacture of exhibits, event planning and production for marketing and branding purposes, and designing and producing websites, mobile platforms, interactive and virtual experiences and social media for branding or marketing purposes.

The Complainant first used the SPARKS mark in 1919.

The Complainant is the owner of numerous United States trademark registrations including U.S. Trademark Registration No. 3,846,967 of SPARKS, registered on September 14, 2010 in Classes 35, 40, 41, and 42; and U.S. Trademark Registration No. 5,089,097 of SPARKS, registered on November 29, 2016, in Class 35, 41, and 42.

The Complainant has used the domain name <wearesparks.com> continuously since on or around June 01, 2017.

The Disputed Domain Name <strategic-sparks.com> was created on October 16, 2024. The Disputed Domain Name is used for a website that is allegedly offering services identical to those offered by the Complainant and bearing its trademarks.

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 Complainant has continuously used its trademarks comprising the term SPARKS since at least 1919. In particular, the Complainant has continuously used its trademarks comprising the term SPARKS in association with branding, advertising, and marketing related services since 2007. The public has come to identify the Complainant as the source of Complainant's high-quality services that are offered under the SPARKS trademarks.

The Disputed Domain Name fully incorporates the entirety of the Complainant's SPARKS trademarks. The additional wording in the Disputed Domain Name is a generic term and, therefore does not reduce the likelihood of confusion but on the contrary increases it.

The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name by virtue of the fact that (1) the Respondent's use of the SPARKS trademarks is unauthorized, and (2) the Respondent's use of the Disputed Domain Name is intended for commercial gain apart from any reasonable fair use. The Respondent's use of a nearly identical and at least confusingly similar mark to Complainant's SPARKS trademarks is without authorization. The Complainant did not grant any right for the Respondent to use the SPARKS trademarks or any variation thereof. Upon information and belief, the Respondent has no rights in the SPARKS trademark generally or specifically in the Disputed Domain Name, since the Respondent adopted the Disputed Domain Name well-after the adoption, use and achievement of fame of the

Complainant's SPARKS trademarks was convincingly established and solely to trade off the Complainant's goodwill in the Complainant's SPARKS trademarks. Indeed, the Disputed Domain Name was created on October 16, 2024, while the Complainant has used its SPARKS trademarks to identify its goods and services since at least April 06, 2007.

The Respondent's use of the Disputed Domain Name is intended for commercial gain apart from any reasonable fair use. The Respondent's use of the Disputed Domain Name falsely suggests an affiliation with the Complainant and therefore the Respondent's use does not qualify as fair use.

The webpage at the Disputed Domain Name continues to describe the Respondent's services offered in connection with branding and marketing services with the deliberate purpose of attracting consumers to the site who mistakenly believe that the site is associated with the Complainant,

The Respondent was aware of the Complainant's prior use of its SPARKS marks when the Respondent began to use the SPARKS marks in commerce and registered the Disputed Domain Name in bad faith. The Respondent's knowledge and intention may be determined by common sense inferences from circumstantial evidence.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in its SPARKS mark which was first used by the Complainant in 1919. Further, the Complainant has used its SPARKS mark in connection with branding, advertising, and marketing related services since 2007. The addition of "strategic-" does not prevent the Complainant's trademark from being recognizable in the Disputed Domain Name. The generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), sections 1.8 and 1.11.1, and *F. Hoffmann-La Roche AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org / Conan Corrigan*, WIPO Case No. [D2015-2316](#).

Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has presented a prima facie case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. The fact that the Respondent obtained the Disputed Domain Name years after the Complainant had begun using its SPARKS mark indicates that the Respondent sought to piggyback on the mark for illegitimate reasons.

After a complainant has made a prima facie case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name. Moreover, the Disputed Domain Name incorporates the Complainant's trademark in its entirety along with the additional term "strategic-" which can be considered as associated with branding, marketing, and advertising services, potentially conveying to unsuspecting Internet users the false belief that the Disputed Domain Name is associated with the Complainant. Such a risk of affiliation or association with the Complainant and its mark cannot constitute fair use.

In the absence of any evidence rebutting the Complainant's prima facie case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Name was registered years after the Complainant first registered and used its SPARKS mark. The evidence provided by the Complainant with respect to the extent of use and fame of its SPARKS mark, particularly in the United States where the Respondent is reportedly located, combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent more likely than not knew of the Complainant's widely-known SPARKS mark.

The Disputed Domain Name is used for a website that is allegedly offering services identical to those offered by the Complainant and bearing its trademarks, but the Complainant has established that the Respondent's use is not authorized, nor is affiliated with the Complainant in any way. The facts establish a deliberate effort by the Respondent to cause confusion with the Complainant for commercial gain. Such impersonation of the Complainant is sufficient to establish the Respondent's bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#). Under these circumstances, the Panel finds no plausible good faith reason for the Respondent's conduct and concludes that the Disputed Domain Name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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 <strategic-sparks.com> be transferred to the Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: January 13, 2025