

ADMINISTRATIVE PANEL DECISION

Storm Model Management Limited v. Xserver Xserver Inc., Xserver Inc.
Case No. D2024-5129

1. The Parties

The Complainant is Storm Model Management Limited, United Kingdom ("UK"), represented by Sheridans, UK.

The Respondent is Xserver Xserver Inc., Xserver Inc., Japan.

2. The Domain Name and Registrar

The disputed domain name <stormmodels.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on December 12, 2024. On December 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 16, 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 in English and Japanese of the Complaint, and the proceedings commenced on December 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2025. The Respondent sent an email communication to the Center on December 24, 2024.

The Center appointed Erica Aoki as the sole panelist in this matter on January 21, 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 is a company registered in England and Wales that was incorporated on June 8, 1987.

The Complainant, over the last 35 years, has been operating Storm Management, a pioneer in top-tier talent representation, specializing in the development and management of exceptional creative talent. The Complainant's journey began in 1987 and has since revolutionized the traditional modelling industry by launching the first UK agency to represent, worldwide, new faces becoming the agency's hallmark.

The Complainant has discovered some of the biggest names within the modelling industry with its roster covering the likes of Kate Moss, Cara Delevingne, Behati Prinsloo, and Anya Taylor-Joy.

The Complainant is widely known across the globe and has been featured in numerous third-party publications such as (amongst others) VOGUE, Elle Magazine, and Dazed Magazine.

The Complainant has unregistered rights in the name "STORM" since the company's registration in 1987, the Complainant is also the proprietor of trademark registrations applied for since 1989 such as:

Mark	Status	Class	Reg. no.	App. date	Reg. date	Territory
STORM	Valid	35	UK00001406278	November 30, 1989	February 8, 1991	UK
STORM MODELS	Valid	35	1637767	December 13, 1989	March 12, 1991	United States of America
STORM	Valid	35	10914881	May 15, 2012	June 14, 2014	China
STORM MODELS	Valid	41	1822508	May 30, 2016	February 1, 2017	Taiwan Province of China

The Complainant originally registered its domain name by <stormmodels.com> on February 22, 1996, and the Complainant had been using the disputed domain name from 1996 through to 2020.

The Complainant lost ownership of the disputed domain name due to an administrative error and has since made attempts to reclaim the disputed domain name. The disputed domain name was acquired by the Respondent in January 2023.

The Panel issued a Procedural Order to including a second Request for Registrar Verification to confirm the ownership of the disputed domain name and to seek clarification around the Complainant's registration lapse on February 10, 2025; the Registrar confirmed that it is still in name of the Respondent and the Complainant provided details about its attempts to correct the lapse.

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 owns numerous trademark registrations for STORM and STORM MODELS in jurisdictions throughout the world and that therefore established trademark rights in STORM and STORM MODELS in numerous jurisdictions, including, but not limited to United States of America, China, and Taiwan Province of China.

The disputed domain name is identical to the Complainant's STORM MODELS trademarks and is therefore confusingly similar to the Complainant's STORM trademarks.

B. Respondent

The Respondent did not reply to the Complainant's contentions although it has sent an email communication to the Center on December 24, 2024 in English informing that the disputed domain name was transferred to another company and that the disputed domain name was only managed by the Respondent on behalf of its customer.

6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in respect of which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Japanese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceedings shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that: (i) the Registrar is conducting its business via "onamae.com". The Registrar makes its website available in both Japanese and English; (ii) The website at "onamae.com" has English as the language for some of its website policies; and (iii) the disputed domain name includes two English words "storm" and "models".

The Respondent submitted a response in English on December 24, 2024, informing that the disputed domain name was transferred to another company and that the disputed domain name was only managed by the Respondent on behalf of its customer.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

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 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 disputed domain name combines the Complainant's STORM and STORM MODELS trademarks in their entirety. Accordingly, the disputed domain name is respectively identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 by which a respondent may demonstrate rights or legitimate interests in a domain name. Whilst 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 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; see the [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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. 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 names such as those enumerated in the Policy or otherwise.

The disputed domain name which is an identical match to the Complainant's well-known mark and was held for many years by the Complainant directs to a blank page and the Complainant requests that the Administrative Panel considers that this passive holding is not a legitimate or noncommercial fair use by the Respondent. The Panel also notes that the Respondent has disclaimed responsibility for the disputed domain name, merely claiming that it is held for a client - notably however, the identity of the client was not made known, nor did the Respondent confirm that it forwarded a copy of the Complaint to its client, if one in fact exists. The second element of the Policy has therefore been met.

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.

Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark, and the composition of the disputed domain name. This case presents the following circumstances which indicate under the balance of probabilities of bad faith registration and use of the disputed domain name:

a) the composition of the disputed domain name reproducing the Complainant's well-known trademark and tradename (previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4); and

b) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it (or its supposed client) of the disputed domain name.

Moreover, in these circumstances, bad faith of the Respondent is also supported here by (i) the lack of reply by the Respondent invoking any rights or legitimate interests; (ii) the indication of what appears to be false or incomplete contact details and/or the pretext of an underlying beneficial registrant.

For the reasons above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy. The third element of the Policy has therefore been met.

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 <stormmodels.com> be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: February 17, 2025