

ADMINISTRATIVE PANEL DECISION

Sanpellegrino S.p.A. v. Tan Wee Wee
Case No. D2025-0093

1. The Parties

The Complainant is Sanpellegrino S.p.A., Italy, represented by Studio Barbero S.p.A., Italy.

The Respondent is Tan Wee Wee, Cambodia.

2. The Domain Name and Registrar

The disputed domain name <sanpellegrinofruitbeverages.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 January 10, 2025. On January 10, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 10, 2025, 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, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 13, 2025, 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 amendment to the Complaint on January 14, 2025.

The Center verified that the Complaint together with the amendment to 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 January 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 13, 2025.

The Center appointed Knud Wallberg as the sole panelist in this matter on February 17, 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 in the present proceedings is Sanpellegrino S.p.A, a company founded in San Pellegrino Terme, Italy in 1899. The Complainant is a leading Italian company in the mineral water and soft drinks industry and is the owner of the SANPELLEGRINO registered and well-known trademark. In 1998, the Complainant was acquired by Nestlé Group. The various SANPELLEGRINO mineral waters and soft drinks are distributed in over 120 countries in all five continents.

The Complainant is the owner of several trademark registrations worldwide for SANPELLEGRINO and S.PELLEGRINO, including the following:

- International Trademark Registration. No. 426768 for SANPELLEGRINO (word mark) registered on November 3, 1976, in classes 32 and 33;
- International Trademark Registration No. 1311637 for SANPELLEGRINO (figurative mark) registered on February 23, 2016, in classes 32 and 33, and
- Cambodian Trademark Registration No. KH/2016/62056 S.PELLEGRINO registered on December 1, 2016, in class 32

The SANPELLEGRINO brand has been strongly supported by global advertising campaigns, and besides the traditional advertising channels, the SANPELLEGRINO brand and products have been also widely promoted on the Internet, with a strong presence online through the most popular social media, just as SANPELLEGRINO and variations thereof are registered as domain names in numerous generic Top-Level Domains (“gTLDs”) and country-code Top-Level Domains, including the domain name <sanpellegrino.com>.

The disputed domain name was originally registered by the Complainant on April 3, 2012 and has been owned by the Complainant until early 2024 when the Complainant decided not to renew the registration of the disputed domain name.

The disputed domain name was registered by the Respondent on June 19, 2024, and it is currently used to redirect to a third-party website that appears to offer various games. The Complainant has provided evidence showing that previously, at different points in time, the disputed domain name resolved to a website reproducing the contents that were displayed at the time the disputed domain name was operated by the Complainant, including a reference to the Complainant in the copyright notice, resolved to an error page, and later resolved and then redirected to a gaming website.

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 is confusingly similar to the trademark SANPELLEGRINO in which the Complainant has rights as it incorporates the whole of SANPELLEGRINO trademark with the addition of the non-distinctive elements “fruit” and “beverages” and the gTLD “.com”.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not an employee, licensee, affiliated person or authorized agent of the

Complainant or in any other way authorized to use the SANPELLEGRINO trademark. In addition, in light of the Registrar-disclosed information for the disputed domain name, it is clear that the Respondent cannot reasonably claim to be commonly known by the disputed domain name. Moreover, the Respondent cannot claim any rights in the disputed domain name since, according to the searches conducted by the Complainant's representative on online trademark databases, no trademark application or registration for SANPELLEGRINO (or S.PELLEGRINO) could be found in the name of the Respondent.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith by the Respondent. The misappropriation of a well-known trademark as domain name by itself constitutes bad faith registration for the purposes of the Policy, in addition to which the fact that the Respondent reproduced on the website to which the disputed domain name initially resolved the contents previously published on that website at the time the disputed domain name was under the Complainant's control demonstrates that the Respondent clearly intended to target the Complainant and its trademark.

B. Respondent

The Respondent did not reply to the Complainant's contentions

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

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

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

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, "fruit beverages", may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 Panel finds that the composition of the disputed domain name incorporating the Complainant’s trademark with the terms affiliated with the Complainant’s industry, coupled with the fact that the Complainant used to own the disputed domain name and the previous use of the disputed domain name to reproduce the contents of the website to which the disputed domain name resolved at the time it was operated by the Complainant, affirms that the Respondent’s intention behind the registration of the disputed domain name was to take unfair advantage of the Complainant and its rights.

The Panel finds that the conditions in paragraph 4(a)(ii) of the Policy are fulfilled in relation to the disputed domain name.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent registered the disputed domain name immediately after it was released by the Complainant and used it to host a website that appeared as a copy of the Complainant’s previous website. It is thus clear to the Panel that the disputed domain name was registered in bad faith and that it was used in bad faith at that time. The disputed domain name was later (and is currently being) used to resolve to an error page and then to resolve and redirect to what appears to be a website that offers various games, and it has thus still been used to attract Internet users by creating a likelihood of confusion with the Complainant’s mark.

The Panel there finds that the conditions in paragraph 4(a)(iii) of the Policy are fulfilled in relation to the disputed domain name.

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 <sanpellegrinofruitbeverages.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: March 6, 2025