

ADMINISTRATIVE PANEL DECISION

CW Brands LLC v. mersal markt

Case No. D2025-0215

1. The Parties

The Complainant is CW Brands LLC, United States of America (“United States”), represented by Kaufman & Kahn, LLP, United States.

The Respondent is mersal markt, Spain.

2. The Domain Name and Registrar

The disputed domain name <coldwatercreekpleasantprairie.info> is registered with Spaceship, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 20, 2025. On January 21, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 22, 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 27, 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 amended Complaint on February 3, 2025.

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 February 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 5, 2025.

The Center appointed Steven A. Maier as the sole panelist in this matter on March 10, 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 limited liability company formed under the laws of Delaware, United States.

The Complainant is the owner of numerous United States registrations for the trademark COLDWATER CREEK, including:

- United States trademark registration number 1531418 for the word mark COLDWATER CREEK, registered on March 21, 1989, in International Class 42; and

- United States trademark registration number 1861320 for the word mark COLDWATER CREEK, registered on November 1, 1994, in International Class 42.

The Complainant also claims trademark registration for the mark COLDWATER CREEK in Cambodia, Canada, the Republic of Korea, Paraguay, Thailand and Viet Nam, in addition to an international trademark, although it does not provide particulars or evidence of those registrations.

The disputed domain name was registered on December 19, 2024.

The disputed domain name has resolved to a website headed with the disputed domain name. The website contains the wording "To remove yourself from future email", a box labelled "Enter your e-mail here" and a button marked "Unsubscribe". It also includes what appears to be a street address in the United States.

5. Parties' Contentions

A. Complainant

The Complainant states (in the context of the language of the proceeding) that it operates a global business in English. However, it provides no further information concerning the nature of its business, its trading history or profile under the COLDWATER CREEK trademark, or any other information concerning the use of that trademark in commerce.

The Complainant submits that the disputed domain name is confusingly similar to its COLDWATER CREEK trademark. It states that the disputed domain name incorporates that trademark in full, together with the terms "pleasant" and "prairie", which do not alter the overall impression created by the disputed domain name.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It contends that the Respondent has not commonly been known by the disputed domain name and, noting that the Respondent's website is inactive, that the Respondent is making neither bona fide commercial use nor legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It contends, in particular, that the Respondent:

- registered or acquired the Domain Name: primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to the Complainant, who is the owner of the trademark or service

mark or to a competitor of that complainant, for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the Domain Name (paragraph 4(b)(i) of the Policy); and/or

- has intentionally attempted to attract for commercial gain, Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location (paragraph 4(b)(iv) of the Policy).

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Procedural Order

In the light of the Complainant having omitted to provide any evidence concerning the use or reputation of its COLDWATER CREEK trademark, or any submission as to why the Respondent was or ought to have been aware of that trademark at the date it registered the disputed domain name, the Panel issued a Procedural Order on March 26, 2025, directing the parties to provide additional submissions in that regard.

The Panel also invited the Parties' comments on the results of a Google search against the term "coldwater creek pleasant prairie", which returned a result relating to a now defunct clothing outlet store located in Pleasant Prairie, Wisconsin, United States. ¹

The Complainant responded to the Procedural Order on March 31, 2025. It states that the Complainant (or its predecessors) has continuously used the COLDWATER CREEK trademark in connection with mail-order catalogue services since at least 1984, offering products include clothing, jewelry, household goods and Christmas decorations. It claims, at the date the disputed domain name was registered and since, to have more than 600,000 purchasing customers per year, with annual sales of approximately USD 125 million.

The Complainant further submits, on information and belief, that the now defunct retail store in Pleasant Prairie, Wisconsin, was operated until 2014 by the Complainant's predecessor in title to the COLDWATER CREEK trademarks.

The Respondent did not respond to the Complainant's further submissions.

7. Discussion and Findings

In order to succeed in the Complaint, it is necessary for the Complainant to demonstrate that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the 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.

¹As discussed in paragraph 4.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision.

It is important to note that, even in a case such as this where the Respondent has failed to participate in the proceeding, it is still incumbent upon the Complainant to establish each of the above elements upon the balance of probabilities.

A. Identical or Confusingly Similar

The Complainant has demonstrated that it is the owner of registered trademark rights for the trademark COLDWATER CREEK. The disputed domain name incorporates that trademark in full, together with the dictionary terms “pleasant” and “prairie”, neither of which prevents the Complainant’s trademark from being recognizable within the disputed domain name.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant’s submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. Nor does the Respondent’s use of the disputed domain name suggest any reason why the Respondent should be taken to have rights or legitimate interests in respect of it.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

In the light of the further information submitted by the Complainant in response to the Procedural Order, the Panel finds that the COLDWATER CREEK trademark has become widely known (at least in the United States) in connection with mail order retail services. The Panel also finds that the Complainant is the successor in interest to any rights in the name COLDWATER CREEK relating to the retail outlet by that name formerly located in Pleasant Prairie, Wisconsin.

In the light of these matters, and in view of the failure of the Respondent, ostensibly located in Spain, to provide any reason for its choice of the disputed domain name, the Panel infers that the Respondent registered the disputed domain name with the Complainant’s COLDWATER CREEK trademark in mind, and with the intention of deriving an unfair commercial advantage from the goodwill attaching to that trademark.

While the specific purpose of the Respondent’s website is unclear, it appears to the Panel most likely to constitute an attempt to harvest email addresses from customers of the Complainant. In any event, the Panel finds in all the circumstances that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel finds in the circumstances that the disputed domain name has been registered and is being used in bad faith.

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 <coldwatercreekpleasantprairie.info> be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: April 11, 2025