

## **ADMINISTRATIVE PANEL DECISION**

Ralf Bohle GmbH v. Becerra Stephen, Stephen V Becerra  
Case No. D2025-0435

### **1. The Parties**

The Complainant is Ralf Bohle GmbH, Germany, represented by MSA IP – Milojevic Sekulic & Associates, Serbia.

The Respondent is Becerra Stephen, Stephen V Becerra, Canada.

### **2. The Domain Name and Registrar**

The disputed domain name <scchwalbe.com> is registered with Hongkong Kouming International Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 4, 2025. On February 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 8, 2025, 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 sent an email communication to the Complainant on February 10, 2025, providing the registrant and contact information disclosed by the Registrar. The Complainant filed an amended Complaint in English on February 11, 2025.

On February 10, 2025, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On February 11, 2025, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on February 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 10, 2025.

The Center appointed Jacob Changjie Chen as the sole panelist in this matter on March 14, 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 German manufacturer of tires and other equipment and parts for bicycles and wheelchairs. The Complainant started manufacturing bicycle tires in 1973 under brand name SCHWALBE and now SCHWALBE products are present in the market in more than 40 countries around the world.

The Complainant is in particular the owner of the following trademark registrations:

- Canadian Trademark Registration No. TMA559840 for SCHWALBE device mark, registered on April 3, 2002, in classes 9, and 12;
- International registration No. 719983 for SCHWALBE device mark, registered on May 19, 1999, in classes 9, and 12; and
- International registration No. 1171528 for SCHWALBE word mark, registered on July 17, 2013, in class 12.

The Complainant also owns a number of domain names incorporating the SCHWALBE trademark, including <schwalbe.com>, <schwalbe.eu>, <schwalbetires.us>, <schwalbe.nl>, <schwalbe.fr>, and <schwalbe.bike>.

The disputed domain name was registered on December 20, 2024. Prior to the filing of this Complaint, the Complainant had sent a letter to the Registrar to notify the alleged infringement, and the website connected to the disputed domain name had been taken down. Before the takedown, it used to resolve to an online store prominently displaying the SCHWALBE mark, and purportedly offering SCHWALBE branded products at heavily discounted prices.

#### **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:

(a) The disputed domain name is confusingly similar to the SCHWALBE trademark which is recognizable within the disputed domain name. The addition of the letter "c" represents a misspelling of the Complainant's mark and as such cannot prevent a finding of confusing similarity between the disputed domain name and the SCHWALBE trademark.

(b) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant and has not been authorized to use and register the SCHWALBE trademark.

The Respondent did not demonstrate use of the disputed domain name in connection with a bona fide offering of goods or services. There is also no evidence that the Respondent is commonly known by the disputed domain name or the Complainant's Trademark. Further, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

(c) The Respondent registered the disputed domain name and is using it in bad faith. It is implausible that the Respondent was unaware of the Complainant when registering the disputed domain name and offering of the Complainant's products at the website confirms that the Respondent had the Complainant in mind when registering the disputed domain name. The Respondent is trying to benefit from the fame of the Complainant's trademark and the primary motive in registering and using the disputed domain name was to capitalize on or otherwise take advantage of the Complainant's trademark.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Procedural Issue: Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Chinese. 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 proceeding 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 the disputed domain name consists exclusively of Latin characters and that the Respondent appears to be a resident of Canada where English is one of the two co-official languages. It therefore should be reasonably assumed that the Respondent has sufficient knowledge of the English language.

The Respondent did not file any response, and did not make any specific submissions with respect to the language of the proceeding.

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 Panel finds the mark is clearly recognizable within the disputed domain name. The mere insertion of the letter “c” after the letter “c” in SCHWALBE is almost unnoticeable. The Panel decides such misspelling does not prevent a finding of confusing similarity between the disputed domain name and the trademark. [WIPO Overview 3.0](#), section 1.9.

Accordingly, the disputed domain name is 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 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 notes that the disputed domain name has a typo with an extra “c” when compared to the Complainant’s SCHWALBE trademark, and that it was resolving to a website dominantly displaying the SCHWALBE trademark, and purportedly offering SCHWALBE branded products, which made the website look and feel like the Complainant’s website. The Complainant also alleged that these SCHWALBE products offered at heavily discounted prices were counterfeit and the Respondent did not rebut. Noting the circumstances of the case, the Panel infers that the products are likely to be counterfeit. These facts suggest that the Respondent was using the disputed domain name in connection with illegitimate activity to confuse Internet visitors.

Panels have held that the use of a domain name for illegal activity (sale of counterfeit goods, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

### **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.

In the present case, the Complainant has registered and used the SCHWALBE trademark for years. The disputed domain name is a clear case of typosquatting by inserting an additional letter “c” after the letter “c” in the SCHWALBE trademark. The Respondent’s knowledge of the SCHEWALBE trademark at the time of registration is evident, which constitutes registration 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.

The disputed domain name typo-squatted the Complainant’s SCHWALBE trademark and its associated website prominently displayed the SCHWALBE trademark in a manner intentionally to create confusion. It can be reasonably assumed that the Respondent was deliberately intending to impersonate the Complainant and capitalize on the fame of the Complainant. Furthermore, SCHWALBE branded products were provided at heavily discounted prices and the Respondent did not deny the allegation from the Complainant that these products were counterfeit. Such use constitutes bad faith under paragraph 4(b)(iv) of the Policy.

Panels have held that the use of a domain name for illegal activity (sale of counterfeit goods, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

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 that the disputed domain name <scschwalbe.com> be transferred to the Complainant.

*/Jacob Changjie Chen/*

**Jacob Changjie Chen**

Sole Panelist

Date: March 31, 2025