

## **ADMINISTRATIVE PANEL DECISION**

Sistema Plastics Limited v. Schulz Kathrin  
Case No. D2025-0715

### **1. The Parties**

The Complainant is Sistema Plastics Limited, New Zealand, represented by AJ Park Law Limited, New Zealand.

The Respondent is Schulz Kathrin, Germany.

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

The disputed domain name <sistemaaustralia.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 21, 2025. On February 21, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 21, 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 (Freistaat Bayern. A) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 24, 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 26, 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 March 4, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 31, 2025.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on April 7, 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 was founded in 1987 in Cambridge, New Zealand. From these beginnings, Sistema Plastics Limited is supported by a global team of over 700 employees with corporate offices in New Zealand, Australia, the United Kingdom, France and the United States of America, and exporting its range of plastic products to over 110 countries worldwide. The Complainant is therefore known beyond the borders of New Zealand as a manufacturer of high-quality plastic products.

The Complainant holds numerous trademarks registrations for SISTEMA on a worldwide basis, inter alia:

- New Zealand Trademark Registration, registration No. 228971, registered May 10, 1996;
- Australia Trademark Registration, registration No. 609358, registered August 16, 1993.
- European Union Trademark Registration, registration No. 010236446, registered on February 2, 2012, where the Respondent is apparently located.

All registrations have been duly renewed and are still valid. The registrations will jointly be referred to as the "Trademark".

The Complainant communicates online through various domain names, such as the domain name <sistemaplastics.com>, registered since 1998.

The disputed domain name was first registered on 30 September 2024, by the Respondent.

Prior to the filing of the Complaint the disputed domain name resolved to websites that are unauthorized replicas or emulations of the Complainant's websites and ostensibly advertise the Complainant's branded products for sale (see hereafter).

On January 22, 2025, on behalf of the Complainant, an Abuse Report was filed with the Registrar, requesting the immediate takedown/suspension of the disputed domain name. On February 11, 2025, a notification from the Registrar was received that the website had been deactivated on February 10, 2025.

The Complainant has submitted evidence showing that, before the website was taken down, it had copied the Complainant's official website to a substantial extent, including through featuring the Complainant's logo, design elements and images from the Complainant's website. At the time of this Decision, the disputed domain name resolves to an inactive 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 states, in summary and in so far as relevant, the following.

The disputed domain name is clearly confusingly similar to the Complainant's SISTEMA Trademark. The disputed domain name comprises the entirety of the Trademark. Further, in creating the disputed domain

name, the Respondent has simply added the generic, geographical term “australia” to the Trademark, thereby making the disputed domain name confusingly similar to the Complainant’s Trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not affiliated with or related to the Complainant in any way, or licensed or otherwise authorized to use the Trademark in connection with a website or for any other purpose. The Complainant has prior rights in the Trademark.

The Respondent is not using the disputed domain name in connection with any legitimate noncommercial or fair use without intent for commercial gain, is not generally known by the disputed domain name and has not acquired any trademark or service rights in that name or mark. On the contrary, the Respondent registered the disputed domain name to fraudulently misrepresent to the public as being an official website of the Complainant. The disputed domain name is used to host a website which impersonates the Complainant’s legitimate website hosted at “www.sistemaplásticos.com”. The website copies and uses the Complainant’s stylized logo and offers for sale an identical range of SISTEMA branded food storage containers, lunch boxes, drink bottles, microwave products, and home organization solutions. All images of the products for sale on the website are owned by the Complainant. Their use therefore also amounts to copyright infringement.

Further, the Complainant has been contacted by an Australian consumer who believed the website at the disputed domain name was a genuine website and made a purchase. The consumer noted that the payment feature seemed “clunky” but on comparison with the Complainant’s legitimate website, he believed the website at the disputed domain name to be genuine and went ahead with the purchase. However, the “clunky” payment feature of the website continued to concern the consumer and so he contacted his bank and also called the Complainant’s Customer Service Team directly by phone notifying them of the existence of the website at the disputed domain name.

The Complainant therefore submits that the disputed domain name is being used in connection with a “trap-purchase and phishing website”. The disputed domain name deliberately suggests an affiliation with the Complainant for commercial gain, and to mislead the Complainant’s customers. This cannot constitute fair use.

Where a respondent uses a domain name for illegal activities this can never confer rights or legitimate interest on a respondent.

Finally, where a Complainant makes out a prima facie case that the Respondent lacks rights or legitimate interests, the burden of proof on this element shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name at issue. If the Respondent fails to come forward with such relevant evidence, the Complainant is deemed to have satisfied the second element.

The disputed domain name has been registered and is used by the Respondent in bad faith.

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.

The Complainant’s Trademark is registered in numerous countries and enjoys a worldwide reputation. It is highly unlikely that the Respondent was not aware of the Trademark, particularly as it chose to register a domain name which incorporates the Trademark in its entirety. This is further evident in the content of the website at the disputed domain name, which displays the Complainant’s stylized logo and copyrighted images of the Complainant’s product range. The website at the disputed domain name therefore creates a clear impression of being the Complainant’s own legitimate website.

The Complainant submits that the content of the website at the disputed domain name establishes that the Respondent has deliberately acquired the disputed domain name primarily for the purpose of attempting to

attract, for commercial gain, the Complainant's customers to the website by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation, or endorsement, without the Complainant's authority or consent.

In the present case, the Complainant submits that the commercial gain the Respondent intends to derive from the website is known. The Respondent has intentionally used the website in connection with a "trap purchase and phishing website" for fraudulent monetary gain.

The Complainant requests that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following three elements in order to succeed in its Complaint:

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

The burden of proof of each element is borne by the Complainant. The Respondent's default does not by itself mean that the Complainant is deemed to have prevailed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.3.

### **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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "australia", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

There is no evidence that the Respondent is commonly known by “sistema” or the disputed domain name. The Respondent used the disputed domain name for a website that mimicked and substantially copied content from the Complainant’s official website, while prominently featuring the Trademark and purporting to offer identical plastic goods. Given the use of SISTEMA in the disputed domain name with the additional geographical term “australia” and noting the impersonating nature of the content previously exhibited at the disputed domain name, consumers are likely to believe that the disputed domain name is related to, affiliated with, or otherwise sponsored by the Complainant, and this is not the case. The Respondent therefore registered the disputed domain name intending to cause confusion with the Complainant. Accordingly, the Respondent cannot establish any rights or legitimate interests in the disputed domain name and cannot prevail under the Policy.

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.

As considered above under section 6.B., the website to which the disputed domain name resolved, imitated the Complainant’s website, as the website prominently displayed the Complainant’s stylized logo, copied design elements and images from the Complainant’s website, creating a clear impression of being the Complainant’s own legitimate website. It is apparent that the Respondent registered and uses the disputed domain name to trade-off the Complainant’s goodwill in its Trademark and to confuse consumers into believing that the disputed domain name is affiliated or associated with the Complainant, which is not the case.

Panels have held that the use of a domain name for illegal activity, here impersonation/passing off, 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 current non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this case.

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 <sistemaaustralia.com> be transferred to the Complainant.

*/Richard C.K. van Oerle/*

**Richard C.K. van Oerle**

Sole Panelist

Date: April 17, 2025