

ADMINISTRATIVE PANEL DECISION

SOMFY ACTIVITES SA v. KathleenCarter

Case No. D2025-0930

1. The Parties

The Complainant is SOMFY ACTIVITES SA, France, represented by CABINET LAVOIX, France.

The Respondent is KathleenCarter, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <somfysmarthome.shop> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 6, 2025. On March 6, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 7, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 12, 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 March 17, 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 20, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 9, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 15, 2025.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on April 25, 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 French company established in the year 1969 that exploits the motorization business. Presently, it operates in 58 countries around the world through 117 subsidiaries. The Complainant achieved global sales of EUR 1.2 billion in 2019.

The Complainant operates different websites such as <somfysystems.com> registered on September 28, 1997 and <somfypro.fr> registered on November 19, 2007, where the Complainant offers connected blinds, shades and associated accessories, as well as solutions for automation of openings and closures of buildings.

The Complainant is the owner of several trademark registrations for SOMFY (Annexes 4 and 5 to the Complaint), amongst which:

- International trademark registration No. 448984 for the word mark SOMFY, registered on November 8, 1979, successively renewed, in classes 7 and 9;
- European Union trademark registration No. 012191367 for the word mark SOMFY, filed on October 2, 2013, and registered on February 27, 2014, successively renewed, in classes 6, 7, 9, 16, 19, 35, 36, 37, 38, 41, 42, and 45; and
- France trademark registration No. 4821757 for the word mark SOMFY, filed on November 30, 2021, and registered on March 25, 2022, in classes 7, 9 and 11.

The disputed domain name, <somfysmarthome.shop>, was registered on July 30, 2024, and presently resolves to an active online shop, reproducing the Complainant's logo and purportedly offering the Complainant's products at 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 asserts to be one of the world's leading motorization companies, producing more than 20 million motors per year for the general public and professionals (as of 2020), having its SOMFY company name and invented trademark become famous.

The Complainant submits that the disputed domain name reproduces entirely the Complainant's SOMFY company name, trademark and domain name, creating a likelihood of confusion with the Complainant's rights, which is enhanced by the inclusion of the term "smarthome" which refers to a characteristic of the Complainant's products and services.

Furthermore, the Respondent is using the disputed domain name in connection with a website offering for sale motors, batteries, antennas, chargers for home connected devices with images of the Complainant's products which were unauthorizedly reproduced from the Complainant's websites, undoubtedly creating an undue association and likelihood of confusion.

Regarding the absence of the Respondent's rights or legitimate interests, the Complainant argues that:

- i. the Respondent is not a licensee of the Complainant and has not been authorized to use the Complainant's trademarks or to apply for any domain name incorporating the SOMFY trademark;
- ii. the Respondent is making an unfair use of the disputed domain name, purportedly offering the Complainant's products and unduly reproducing the Complainant's product images;
- iii. the Respondent has not been commonly known by the disputed domain name; and
- iv. there is no plausible explanation for the Respondent's registration of the disputed domain name.

Lastly, the Complainant submits that the disputed domain name was registered and is being used in bad faith and with the fraudulent intent to lure Internet users into the belief that the Respondent is, or is affiliated with, the Complainant, what is not true. Also, past UDRP panels have recognized that "[t]he trademark SOMFY is an invented word. The Domain Name encapsulates the Complainant's widely used mark. The Respondent in all likelihood registered the Domain Name with knowledge of the Complainant's rights" (*Somfy SAS v. Ms. Naama Ben Izak*, WIPO Case No. [D2008-0171](#)) as well as that "the SOMFY mark is well-known and the Complainant operates internationally, including in the United States, where the Respondent is located" (*Somfy Activites SA v. Host Master, Transure Enterprise Ltd*, WIPO Case No. [DCO2022-0028](#)) and also that "The Panel finds on the balance of probabilities that the Respondent was aware of the Complainant and its reputation in the SOMFY Mark at the time the Respondent registered the Domain Name. The SOMFY Mark has been used for over 50 years and has a considerable reputation. There is no obvious reason, nor has the Respondent offered an explanation, for the Respondent to register a domain name that consists of a minor misspelling of the SOMFY Mark unless there was an intention to create a likelihood of confusion between the Domain Name and the Complainant and the SOMFY Mark. The registration of the Domain Name in awareness of the SOMFY Mark and in the absence of rights or legitimate interests in this case amounts to registration in bad faith" (*Somfy Activites SA v. Privacy service provided by Withheld for Privacy ehf / Mariano Guzman*, WIPO Case No. [D2022-2128](#)).

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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 Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

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 (“smarthome”) 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.

In that sense, and according to the evidence submitted, the Complainant has made a prima facie case against the Respondent who has not been commonly known by the disputed domain name and is neither authorized, licensed, or been allowed to use the Complainants’ trademark, whether in the disputed domain name, or in any other way.

Also, the lack of evidence as to any trademarks registered by the Respondent corresponding to the disputed domain name, corroborates the indication of an absence of rights or legitimate interests in the disputed domain name.

Moreover, according to the evidence submitted by the Complainant, the unauthorized reproduction of the Complainant’s product images in connection with purportedly offering them for sale at the website available at the disputed domain name does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name in these circumstances.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

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

C. Registered and Used 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.

This case presents the following circumstances which indicate under the balance of probabilities bad faith registration and use of the disputed domain name:

- a) the composition of the disputed domain name reproducing the Complainant's trademark (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);
- b) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain name;
- c) the indication of what appears to be false contact details by the Respondent, not having the Center been able to deliver the Written Notice to it; and
- d) the Respondent used the disputed domain name to offer goods, reproducing unauthorizedly the Complainant's official product images.

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 <somfysmarthome.shop> be cancelled.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: May 9, 2025