

ADMINISTRATIVE PANEL DECISION

EE Holding Group LLC v. Sukholudskyi Rostyslav Volodymyrovych
Case No. D2025-1043

1. The Parties

The Complainant is EE Holding Group LLC, United States of America (“United States”), represented by The Sladkus Law Group, United States.

The Respondent is Sukholudskyi Rostyslav Volodymyrovych, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <ericemmanuel.org> (the “Domain Name”) is registered with Hosting Ukraine LLC (ua.ukraine) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 13, 2025. On March 14, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 17, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy Protection, Hosting Ukraine LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 17, 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 March 18, 2025.

On March 17, 2025, the Center informed the parties in Russian and English, that the language of the registration agreement for the Domain Name is Russian. On March 18, 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 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 in Russian and English of the Complaint, and the proceedings commenced on March 25, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2025. The Response was filed in English with the Center on April 14, 2025.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on April 18, 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.

On April 21, 2025, the Center received the Complainant's Supplemental Filings.

4. Procedural Issues

4.1. Language of the Proceeding

The language of the Registration Agreements for the Domain Name is Russian. 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.

First, the Complainant notes that the website associated with the Domain Name is in English language. Second, the Complainant highlights that all products offered for sale on the associated website are listed in USD. Third, the Complainant submits that requiring it to engage a translator for the present proceeding would impose substantial additional costs and would cause undue delay.

The Respondent did not comment on the Complainant's request for the language of the proceeding be English, and has in any event filed a Response.

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 section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

The Panel accepts that substantial additional expense and delay would likely be incurred if the Complaint had to be translated into Russian. Moreover, the Panel notes that the Respondent did not comment or let alone object to the Complainant's arguments concerning the language of the proceeding. Finally, the Panel observes that the Respondent filed the Response in English, thereby confirming its ability to conduct these proceedings in English.

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.

4.2. Supplemental Filings

On April 21, 2025, the Center received the Complainant's Supplemental Filing addressing several procedural and substantive issues raised by the Response and its annexes. On the same day, the Center received a second Supplemental Filing from the Complainant regarding an automatic email from the email address associated with the Domain Name, which, in the Complainant's view, further supports its contentions in this case.

The Panel notes that the Rules provide for the submission of the Complaint by the Complainant and the Response by the Respondent. No express provision is made for supplemental filings by either Party, except in response to a deficiency notification or if requested by the Center or the Administrative Panel.

Paragraphs 10 and 12 of the Rules in effect grant the Panel discretion to determine the admissibility of supplemental filings (including further statements or documents) received from either Party. Thus, it is in the discretion of the Panel to determine whether to consider and/or admit any supplemental filing in rendering its decision.

UDRP panels have repeatedly affirmed that the party's submission of supplemental filing or its request to submit an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response (e.g., owing to some "exceptional" circumstance). See section 4.6 of the [WIPO Overview 3.0](#).

While unsolicited supplemental filings are generally discouraged, and should not consist on a mere rebuttal opportunity (which it is not contemplated within the Rules), the Panel considers that the Complainant's Supplemental Filings are relevant to the case. In particular, the Panel notes that the Supplemental Filings address new developments that arose after the Complaint was submitted and were referred to in the Response, with the primary issue being the alteration of the content of the website associated with the Domain Name. Accordingly, the Complainant could not have included the information contained in the Supplemental Filings in its original Complaint.

Given the above, the Panel determines that the Complainant's Supplemental Filings are admitted and considered in rendering this Decision.

5. Factual Background

The Complainant is a fashion company that owns all intellectual property rights, including all trademark rights, associated with Eric Emanuel, an independent sportswear designer (the "Designer"). The Complainant sells its authentic products exclusively through its official website at the domain name <ericmanuel.com>, in-person at its two storefront locations, and through authorized retail partners with whom the Designer has established partnerships.

The Complainant is the owner of several ERIC EMANUEL trademark registrations, including:

- the United States Trademark Registration for ERIC EMANUEL (word) No. 6721224, registered on May 24, 2022; and
- the International Trademark Registration for ERIC EMANUEL (word) No. 1762468, registered on October 11, 2023.

The Domain Name was registered on November 16, 2024.

At the time of submitting the Complaint, the Domain Name resolved to an online store purportedly selling the Complainant's products (the "Website 1"). During the course of the proceedings, the content of Website 1 was modified. As of the date of this Decision, the Domain Name resolves to an online platform purportedly dedicated to the resale of the Complainant's pre-owned products (the "Website 2").

6. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

First, the Complainant contends that the Domain Name is confusingly similar to the trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the Domain Name.

First, the Respondent argues that it has legitimate interests in the Domain Name, operating an independent platform for the verification and resale of authentic, pre-owned Complainant's products, with no intent to mislead consumers.

Second, the Respondent claims that the clear disclaimers throughout the Website 2 regarding its lack of association with the Complainant prevent any confusion, thereby supporting its right to use the Domain Name.

Third, the Respondent denies any bad faith registration or use, emphasizing its transparent operations, absence of any offer to sell the Domain Name, and good faith efforts to serve the consumer community.

C. Complainant's Supplemental Filings

In the Supplemental Filings the Complainant argues that the Response should be rejected for the several reasons.

First, the Complainant argues that the Respondent modified the Website 1 after the dispute began by adding disclaimers that were not originally present.

Second, the Complainant claims the Respondent continues to mislead consumers by using the Complainant's store address and filing the Response under a misspelled name of the Designer.

Third, the Complainant asserts that the Response is procedurally deficient, failing to meet several requirements under the Rules.

Finally, the Complainant submits that an automatic email received from the address associated with the Domain Name, titled "EE Received your message" and signed by the "EE Team", constitutes further evidence of the Respondent's intent to mislead the public and supports the Complainant's contentions in this case.

7. Discussion and Findings

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

- (i) the 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 the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met. At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the [WIPO Overview 3.0](#).

A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

The Complainant holds valid registrations for the ERIC EMANUEL trademark. The Domain Name consists of a misspelling of this trademark by adding an extra “m” in the “emanuel” portion. It is well established that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark. See section 1.9 of the [WIPO Overview 3.0](#).

The generic Top-Level Domain (“gTLD”) “.org” in the Domain Name is viewed as a standard registration requirement and as such is typically disregarded under the first element test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is confusingly similar to the Complainant’s ERIC EMANUEL trademark for purposes of the Policy. In sum, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Under the second element, the Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Name.

A right or legitimate interest in the Domain Name may be established, in accordance with paragraph 4(c) of the Policy, if the Panel finds any of the following circumstances:

- (i) that the Respondent has used or made preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services prior to the dispute; or
- (ii) that the Respondent is commonly known by the Domain Name, even if the Respondent has not acquired any trademark rights; or
- (iii) that the Respondent is making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

In the present case, the Complainant's ERIC EMANUEL trademark registrations predate the Respondent's registration of the Domain Name. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use the ERIC EMANUEL trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Name in connection with a bona fide offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Name.

On the contrary, at the time of submitting the Complaint, the Domain Name resolved to the Website 1 featuring an online store purportedly selling the Complainant's products. During the course of the proceedings, the content of Website 1 was modified. As of the date of this Decision, the Domain Name resolves to the Website 2 featuring an online platform purportedly dedicated to the resale of the Complainant's pre-owned products. Such use of the Domain Name does not confer rights or legitimate interests on the Respondent as it falsely suggests an association with the Complainant.

The Respondent could make a bona fide offering of goods and services as a reseller or distributor of the Complainant's products and thus have a legitimate interest in the Domain Name, if this use meets certain requirements as set out in *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). While it does not result from the case record that the Respondent is authorized to resell or distribute the Complainant's products, taking into consideration the nature of the Domain Name as compared to the trademark, the Panel will for completeness analyze the "fair use" factors enumerated under the above-referenced "Ok! Data test". These requirements are that: (1) the Respondent must actually be offering the goods or services at issue; (2) the Respondent must use the site to sell only the trademarked goods or services, otherwise, it could be using the trademark to bait Internet users and then switch them to other goods or services; (3) the site must accurately disclose the Respondent's relationship with the trademark owner; and (4) the Respondent must not try to corner the market in all domain names, thus depriving the trademark owner of reflecting its own mark in a domain name.

In the present case, the above referred requirements are not met. The Domain Name itself, along with Website 1 and Website 2 (collectively referred to as the "Websites"), falsely suggest an affiliation with the Complainant and its ERIC EMANUEL trademark. The Panel believes that the use of the Complainant's trademark in the Domain Name and on the Websites misleads Internet users regarding the lack of relationship between the Respondent and the Complainant, as Internet users may falsely believe that the Respondent is an entity associated with the Complainant.

At the time the Complaint was submitted, the relationship between the Respondent and the Complainant (or a lack thereof) was not disclosed on the Website 1. This perpetuated the false impression of a relationship between the Respondent and the Complainant. During the course of these proceedings, the content of the Website 1 was altered, and the Panel believes that such changes were made in response to the present dispute. In particular, a disclaimer was added stating: "EricEmmanuel.org is an independent service platform and is not affiliated with, endorsed by, or sponsored by Eric Emanuel or EE Holding Group LLC. All items authenticated and listed are pre-owned and sold by individual sellers." However, the Panel does not consider that this disclaimer adequately satisfies the requirement to clearly and accurately disclose the Respondent's relationship with the trademark owner.

Notably, the provider of the Website 2 is presented as "Eric Emmanuel", a misspelling of the real Designer's name, and the address listed matches that of the Complainant's official store. These elements create the false impression that the Website 2 is operated by the Designer and/or the Complainant, or at least by an entity closely associated with them.

Furthermore, the Complainant alleges that the products offered on the Websites are highly likely to be counterfeit and unauthorized by the Complainant. The Panel also notes in this regard that while the website claims it is selling used products, when one clicks on the link for any individual product, it does not contain any language or picture or any other indicia whatsoever to support any claim that the goods are second-hand, let alone verified as legitimate.

Given the above, there are no circumstances in evidence which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests of the Respondent in respect of the Domain Name. Thus, there is no evidence in the case record that refutes the Complainant's prima facie case. In sum, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Under the third element, the Complainant must prove that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1 of the [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes, without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the ERIC EMANUEL trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration. This finding is supported by the content of the Websites allegedly offering for sale the Complainant's products, as well as prominently displaying the ERIC EMANUEL trademark. Moreover, it has been proven to the Panel's satisfaction that the Complainant's ERIC EMANUEL trademark is well-known and unique to the Complainant. Thus, the Respondent could not reasonably ignore the reputation of goods under this trademark. In sum, the Respondent, more likely than not, registered the Domain Name with the expectation of taking advantage of the reputation of the Complainant's ERIC EMANUEL trademark.

Furthermore, as previously noted, the Domain Name has been used in bad faith by the Respondent to resolve Internet users to the Websites. The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to these Websites by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Websites.

For the reasons discussed above, the Panel finds the third element of the Policy has been established.

8. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <ericemmanuel.org> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: May 2, 2025