

ADMINISTRATIVE PANEL DECISION

Breitling SA v. sun skay

Case No. D2025-1349

1. The Parties

The Complainant is Breitling SA, Switzerland, represented by IP Twins, France.

The Respondent is sun skay, China.

2. The Domain Name and Registrar

The disputed domain name <replica-breitling.com> is registered with Spaceship, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 3, 2025. On April 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 3, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 7, 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 April 8, 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 April 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 4, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 7, 2025.

The Center appointed Olga Zalomiy as the sole panelist in this matter on May 15, 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 Swiss company that manufactures high-end chronograph, watches and related accessories. The Complainant owns numerous registrations for its BREITLING trademark, such as:

- The International registration No. 279322 for the BREITLING trademark, registered on January 31, 1964;
- The International registration No. 160212 for the B BREITLING figurative trademark, registered on March 10, 1952; and
- The European Union registration No. 0613794 for the BREITLING figurative trademark, registered on January 7, 1994.

Prior UDRP panels found the BREITLING trademark to be well known.¹

The Complainant also owns the <breitling.com> domain name that directs to its official website.

The Respondent registered the disputed domain name on March 6, 2025. Currently, the disputed domain name does not direct to an active website. At the time of filing of the Complaint, the disputed domain name redirected users to the Complainant's official 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 contends that the disputed domain name is confusingly similar to its BREITLING trademark because it reproduces the trademark in its entirety. The Complainant argues that neither the addition of the generic term "replica", nor the hyphen diminishes the similarity with its well-known trademark. The Complainant argues that the applicable generic Top-Level Domain ("gTLD") ".com", which is viewed as standard registration requirement, is not significant for the purposes of the confusing similarity determination.

The Complainant alleges that the Respondent is neither commonly known by the disputed domain name, nor has it acquired trademark or service mark rights in the term "Breitling". The Complainant contends that the Respondent has not registered any trademarks or trade names corresponding to the disputed domain name. The Complainant alleges that it has not granted authorization for the Respondent to use its trademarks. The Complainant asserts that the Respondent's use of the disputed domain name demonstrates a lack of intent to utilize it for a legitimate offering of goods or services. Instead, the disputed domain name redirects users to the Complainant's official website at "www.breitling.com". The Complainant alleges that the Respondent has engaged in neither noncommercial, nor fair use of the disputed domain name, as it has not been actively used the disputed domain name.

The Complainant contends that the Respondent registered the disputed domain name in bad faith, because it is inconceivable that the Respondent did not know about the Complainant's well-known trademark. The Complainant alleges that the Respondent likely chose the disputed domain name because of its similarity to the Complainant's mark. The Complainant also claims that there is no possible way for the Respondent to put the disputed domain name in good faith use, so it is likely that the Respondent registered the disputed domain name to prevent the Complainant from reflecting its trademark in the disputed domain name. The Complainant argues that the Respondent's registration of the disputed domain name many years after the Complainant's registration of its trademark indicates the Respondent's bad faith registration of the disputed

¹Breitling SA v. Will Wang, WIPO Case No. [D2018-0829](#); Breitling SA v. Name Redacted, WIPO Case No. [D2018-0258](#); Breitling SA v. tao tao, WIPO Case No. [D2023-3302](#).

domain name. The Complainant contends that the Respondent is not using the disputed domain name in good faith because it is preventing the Complainant from reflecting its trademark in the corresponding domain name.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the disputed domain name:

- (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.

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. The inclusion of the gTLD ".com" is typically disregarded in the context of the confusing similarity assessment, being a technical requirement for registration. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms here, "replica" and the hyphen symbol 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.

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 evidence on record shows that the Respondent is not commonly known by the disputed domain name. The Respondent has not been authorized by the Complainant to use the Complainant's trademark in a domain name. Nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name or uses it for bona fide offering of goods or services, because the disputed domain name currently does not direct to an active website and previously redirected to the Complainant's official website.

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 Panel notes that the Respondent registered the disputed domain name incorporating the Complainant's well-known trademark at least over 70 years after the Complainant's first trademark registration. The Respondent's lack of rights or legitimate interests in the disputed domain name, the absence of a credible explanation for choosing the disputed domain name, and the well-known reputation of the Complainant's trademark, indicate that the disputed domain name was registered 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 previously redirected to the Complainant's website. Panels have found that a respondent redirecting a domain name to the complainant's website can establish bad faith insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant. [WIPO Overview 3.0](#), Section 3.1.4.

The disputed domain name does not currently resolve to an active website. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, the failure of the Respondent to submit a response, the composition of the disputed domain name which suggests that the website at the disputed domain name would sell fake products of the Complainant, and the implausibility of any good faith use to which the disputed domain name may be put, and the Panel finds, based on the foregoing, that the passive holding of the disputed domain name does not prevent a finding of 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 <replica-breitling.com> be transferred to the Complainant.

/Olga Zalomyi/
Olga Zalomyi
Sole Panelist
Date: May 26, 2025