

ADMINISTRATIVE PANEL DECISION

Souza Cruz Ltda v. joseceliocontato moo, Rei motos
Case No. D2025-2006

1. The Parties

Complainant is Souza Cruz Ltda, Brazil, represented by Demys Limited, United Kingdom.

Respondent is joseceliocontato moo, Rei motos, Brazil.

2. The Domain Name and Registrar

The disputed domain name <souzacruzLtda.shop> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 20, 2025. On May 20, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to Complainant on May 22, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on May 23, 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 Respondent of the Complaint, and the proceedings commenced on May 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 17, 2025. Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 27, 2025.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on July 1, 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

Complainant is a manufacturer of tobacco and nicotine products and operates as BAT Brasil, being a member of the British American Tobacco Group of Companies, a multinational active in 160 countries. In Brazil, Complainant is one of the leaders in the tobacco market, operating a domestic distribution network that serves more than 300,000 points of sale across more than 5,000 Brazilian municipalities.

Complainant is the owner of several registrations in Brazil for the SOUZA CRUZ trademark and also owns domain names incorporating the SOUZA CRUZ trademark such as <souzacruz.com>.

Some examples of Complainant's trademarks registrations for SOUZA CRUZ can be found below:

Registration	Trademark	Jurisdictions	International Class	Registration Date
800139151	SOUZA CRUZ	Brazil	25 (national)	November 30, 1982
800135369	SOUZA CRUZ	Brazil	14 (national)	December 7, 1982
909996881		Brazil	11	January 16, 2018
909996792		Brazil	34	July 10, 2018

The disputed domain name <souzacruzltda.shop> was registered on November 26, 2024, and used to resolve to a website that used the SOUZA CRUZ trademark and appeared to be associated or endorsed by Complainant. Currently, the disputed domain name is being used to redirect Internet users to a Registrar's parking page.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that the entirety of the SOUZA CRUZ trademark is being reproduced in the disputed domain name. According to Complainant, the addition of the term "Ltda" does not prevent the possibility of confusion with its prior rights to the SOUZA CRUZ trademark. Complainant states that the adornment "Ltda" does not avoid confusion, since it only refers to the legal expression for "limited liability company" in Brazil. Complainant itself is a business incorporated as "Ltda" in Brazil (Souza Cruz Ltda).

Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant's trademark SOUZA CRUZ and owned domain names, fulfilling paragraph 4(a)(i) of the Policy and paragraphs 3(b)(viii) and (b)(ix)(1) of the Rules.

Complainant states that Respondent lacks any rights or legitimate interests in the disputed domain name. This is supported by the fact that there is no current or past relationship between the parties. Also, Complainant states that it has neither authorized, nor somehow given its consent to Respondent to register or use the disputed domain name in any way.

Complainant affirms that Respondent is not making a legitimate noncommercial or fair use of the disputed domain name as it does not resolve to any active website. Other than this, Complainant argues that a claim of fair use cannot thrive, since there is a risk of implied affiliation tied to the disputed domain name.

Also, Complainant claims that Respondent's previous use of the website and current use do not constitute a legitimate noncommercial or fair use of the disputed domain name.

In this manner, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, fulfilling paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules.

Complainant argues that Respondent previously had intentionally and attempted to attract, for commercial gain, Internet users, by creating a likelihood of confusion with Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of Respondent's website. Complainant asserts that the composition of the disputed domain name and the reputation surrounding the SOUZA CRUZ trademark, that was even displayed on the website, corroborate this point of view.

Furthermore, Complainant believes that Respondent's current passive hold of the disputed domain name does not prevent a finding of bad faith. Therefore, Complainant affirms that Respondent has registered the disputed domain name with Complainant's famous trademark in mind and without good faith intentions.

Complainant also reasons that Respondent choice of the Top-Level Domain ("TLD") ".shop" indicates bad faith. Moreover, Respondent provided false contact information to Registrar as an attempt to conceal their true identity, thus constituting bad faith.

Thus, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraphs 4(a)(iii) and 4(b) of the Policy and paragraph 3(b)(ix)(3).

Accordingly, Complainant requests transfer of the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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 proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the Panel's decision shall be based upon the complaint.

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 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.

Based on the available record, the Panel finds 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 trademark SOUZA CRUZ is reproduced within the disputed domain name. Accordingly, the disputed domain name <souzacruzltda.shop> is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the terms "Ltda" may bear on assessment of the second and third elements, the Panel finds that such change 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.

Therefore, based on the available record, 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on 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 Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

Panels have held that the use of a domain name for illegitimate activity, here claimed as passing off, can never confer rights or legitimate interests on a Respondent, particularly when the disputed domain name was used to mislead consumers into believing it was endorsed by or affiliated with Complainant. [WIPO Overview 3.0](#), section 2.13.1. One can even argue that the addition of the term "Ltda" may increase the confusion, since it references Complainant's company name "Souza Cruz Ltda", and only refers to the legal name for a limited liability company in Brazil.

Based on the available record, Respondent does not have any trademark, trade name, or any other right associated with the disputed domain name. Additionally, Respondent has not been authorized by Complainant to use the SOUZA CRUZ trademark, and there is no commercial relationship between the Parties. Respondent is not recognized by the disputed domain name, and the Panel notes that Respondent is currently only passively holding the disputed domain name. In light of these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

Accordingly, 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 Respondent has registered the disputed domain name that is confusingly similar to Complainant's trademark SOUZA CRUZ, as explained above in 6.A. Also, based on the available record, it is established that Respondent has no affiliation with Complainant and the trademark SOUZA CRUZ, nor has it sought authorization or a license to utilize the referred trademark. Also, Respondent does not own any trademarks containing the term SOUZA CRUZ or showed any rights over the trademark or any relating terms, as explained in 6B.

Furthermore, considering Complainant's significant worldwide reputation appearing as one of the biggest tobacco companies in Brazil and as part as one of the largest tobacco groups in the world, Respondent evidently knew or should have known of the existence of Complainant's prior trademark rights and domain names, which were matters of public record, before registering the disputed domain name. Other than this, considering Respondent's documented use of the SOUZA CRUZ trademark, Respondent must have had knowledge of Complainant's pre-existing rights to the SOUZA CRUZ trademark, since it was even used on the website.

The registration of the disputed domain name was carried out by Respondent, who had the responsibility to verify the existence of the referred trademarks. Therefore, considering the use of the disputed domain name, it may be inferred that the registration of the disputed domain name was intentionally done with plans of passing off as Complainant, trying to make use of the reputation of Complainant's trademarks in question. This action resulted in the likelihood of confusion among Internet users, specially taking into consideration Respondent's use of the disputed domain name and trademarks.

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

Moreover, Respondent's current use of the disputed domain name, which resolves to a parked website does not prevent the finding of bad faith in this case. See *QlikTech International AB v. 林藏 (Lin Zang)*, WIPO Case No. [D2024-2111](#).

Therefore, the Panel finds that the circumstances of the present case allow for a finding of bad faith in the registration and use of the disputed domain name, considering that (i) Respondent attempted to impersonate/pass off as Complainant; and, (ii) Respondent was most likely aware of Complainant's rights in the trademark SOUZA CRUZ, considering specially Respondent's previous use of the website under the disputed domain name, which aimed to create a likelihood of confusion within Internet users and give the false impression of an affiliation with the Complainant.

Lastly, the Panel finds it is relevant that Respondent (i) provided false contact information to Registrar; and (ii) did not provide any evidence of good faith registration or use or otherwise participated in this dispute.

Based on the available record, the Panel finds that 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 <souzacruzltda.shop> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: July 15, 2025