

ADMINISTRATIVE PANEL DECISION

Souza Cruz Ltda v. Paulo Cesar
Case No. D2025-2007

1. The Parties

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

The Respondent is Paulo Cesar, Brazil.

2. The Domain Name and Registrar

The disputed domain name <distribuidorasouzacruz.online> 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 the same day, the Center sent an email to the Registrar requesting information 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 provided in the Complaint. On May 23, 2025, the Center sent an email to the Complainant, 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 May 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 May 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 17, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 18, 2025.

The Center appointed Simone Lahorgue Nunes as the sole panelist in this matter on June 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, founded in 1903, is headquartered in Rio de Janeiro, Brazil. The company is “one of the biggest tobacco companies in Brazil and its activities employs over 6,000 people” and “operates a wide domestic distribution network, as it serves more than 300,000 points of sale across more than 5,000 Brazilian municipalities”. Moreover, the Complainant is a member of the British American Tobacco Group of Companies (“BAT”).

The Complainant has provided evidence of being the right holder of the trademark SOUZA CRUZ in Brazil, for instance:

- Trademark No 800139151, registered on November 30, 1982;
- Trademark No 800135369, registered on December 7, 1982;
- Trademark No 909996881, registered on January 16, 2018.

Furthermore, the Complainant registered the domain name <souzacruz.com> on August 16, 1999.

The disputed domain name, which is inactive, was registered by the Respondent on April 11, 2025.

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

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.

The Complainant argues that when “combined with the Complainant’s well-known mark, the adornment ‘distribuidora’ does not dispel any possibility of confusion” (Section 1.8 of the [WIPO Overview 3.0](#)). In addition, the Complainant affirms that “adding an extra letter already present in a complainant’s name or mark is common tactic employed by domain name squatters. Adding another ‘z’ to the Complainant’s SOUZA CRUZ mark within the disputed domain name can be seen as a typographical variant of said mark” (Section 1.9 of the [WIPO Overview 3.0](#)).

The Complainant affirms that the Top-Level Domain “.online”, “is required only for technical reasons and, as in common in proceedings under the UDRP, can be ignored for the purposes of comparison of the disputed domain name to the Complainant’s marks”.

The Complainant points out that it “has found no evidence that the Respondent, Paulo Cesar, has been commonly known as SOUZA CRUZ or DISTRIBUIDORA SOUZA CRUZ Z prior to or after the registration of the disputed domain name. The Respondent is not a licensee of the Complainant and has not received any permission or consent from the Complainant to use their SOUZA CRUZ mark”.

Furthermore, the Complainant contends that it “has found no evidence that the Respondent owns any trademarks incorporating the term SOUZA CRUZ or DISTRIBUIDORA SOUZA CRUZ Z. Equally, the Complainant has found no evidence that the Respondent has ever traded legitimately under the name SOUZA CRUZ or DISTRIBUIDORA SOUZA CRUZ Z”.

The Complainant affirms that the Respondent “cannot claim a legitimate ‘fair use’ interest as the nature of the disputed domain name carries a risk of implied affiliation”.

Moreover, the Complainant argues that “the addition of a term related to the brand, as well as the intentional misspelling of its brand (namely, ‘Souza Cruz z’) within the disputed domain name falsely implies an affiliation between the Respondent and the Complainant”.

The Complainant points out that the Respondent “cannot obtain or derive any rights or legitimate interests through its passive holding of the disputed domain name”.

The Complainant argues that at “the point of submission the website associated with the disputed domain name is ‘passively held’ and that such passive holding of the disputed domain name constitutes bad faith”.

The Complainant affirms that it is very well known worldwide, and that SOUZA CRUZ mark has been used for many years prior to the registration of the disputed domain name. In addition, the Complainant informs that “has been operating in Brazil, the Respondent’s location, since 1903 and is one of Brazil’s largest tobacco producers and distributors”.

Furthermore, the Complainant argues that “the [disputed] domain name does not resolve to an active website and that its ICANN status is ‘clienthold’ (which means that the disputed domain name has been disabled by the registrar of record)”.

B. Respondent

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

6. Discussion and Findings

The analysis of the Complainant’s arguments and of the presented evidence leads to the conclusion that the Complaint should be upheld, based on the following grounds:

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 SOUZA CRUZ 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 here, “distribuidora”, “online” and the letter “z” 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.

As asserted by the Complainant, the Panel notes that the Respondent does not appear to hold any trademark rights to the SOUZA CRUZ term. There is also no evidence that the Respondent retains unregistered trademark rights to the term SOUZA CRUZ. Neither has the Respondent received any license from the Complainant to use domain names featuring the SOUZA CRUZ Trademark.

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 Panel further notes that the composition of the disputed domain name including the SOUZA CRUZ trademark with the addition of an extra letter (“z”), combined with the descriptive Portuguese term (“distribuidora”) which translates to “distributor” in English and the term (“online”), may mislead Internet users into believing that the disputed domain name belongs to or is associated with the Complainant.

In light of these factors, the Panel finds the second element of the Policy has been met.

C. Registered and Used in Bad Faith

The Panel notes that, for the purpose of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the same Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and is being 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.

In the present case, the Panel notes that the Respondent’s bad faith registration and use of the disputed domain name for the following reasons:

First, the use of the SOUZA CRUZ trademark in the disputed domain name with the addition of an extra letter (“z”), combined with the inclusion of the descriptive Portuguese term (“distribuidora”) which translates to “distributor” in English and the term (“online”), suggests that the Respondent has registered the disputed domain name with the actual knowledge of the Complainant and its trademarks, and has done so in an attempt to create a likelihood of confusion with the Complainant.

Second, it is clear that the Respondent lacks rights or legitimate interests in the disputed domain name and this reinforced by the fact that there is no credible explanation for the Respondent’s choice of the disputed domain name as the Respondent did not reply to the Complainant’s contentions. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) 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, and the composition of the disputed domain name, and finds that in the circumstances of this case 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 <distribuidorasouzacruz.online> be transferred to the Complainant.

/Simone Lahorgue Nunes/

Simone Lahorgue Nunes

Sole Panelist

Date: July 9, 2025