

## **ADMINISTRATIVE PANEL DECISION**

Souza Cruz Ltda v. RAIONE SANTOS REIS

Case No. D2025-2020

### **1. The Parties**

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

The Respondent is RAIONE SANTOS REIS, Brazil.

### **2. The Domain Name and Registrar**

The disputed domain name <souzacruzpedidos.com> is registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 21, 2025. On May 21, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 22, 2025, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and its contact details.

The Center verified that 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 of the Complaint, and the proceedings commenced on May 23, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 13, 2025.

The Center appointed Paula Bezerra de Menezes as the sole panelist in this matter on June 17, 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 operates as “BAT Brasil”. The company, based in Rio de Janeiro, Brazil, is a member of the British American Tobacco Group of Companies (“BAT”) and is BAT’s leading provider/producer and distributor of tobacco and tobacco products to the BAT group worldwide.

BAT is a United Kingdom multinational tobacco and nicotine products manufacturing company headquartered in London, the United Kingdom and is one of the the largest publicly traded tobacco company in the world. BAT was founded in 1902. It operates widely in the Americas, Africa, Asia-Pacific, Europe, and Middle East, and employs over 48,000 staff. In 2024, it reported revenues of GBP 25,867 million (Annexes 3 and 4, of the Complaint).

The Complainant’s history goes back to 1903, and it became a fully owned subsidiary of the BAT group in 2016. The Complainant is one of the largest tobacco companies in Brazil, and it employs over 6,000 people. The Complainant also operates a domestic distribution network, which serves more than 300,000 points of sale across more than 5,000 Brazilian municipalities. The Complainant operates its official website at “www.batbrasil.com” (Annex 5, of the Complaint), and owns further domain names including <souzacruz.com>.

The Complainant is the owner of the following marks in Brazil (Annex 8 of the Complaint), where both the Complainant and Respondent are located:

- Registration 800139151, SOUZA CRUZ (word), registered on November 30, 1982, to cover in former national class 25.10/20/30, “*clothing and clothing accessories for common use. Sports clothing and accessories. Professional clothing and accessories*”;
- Registration 800135369, SOUZA CRUZ (word), registered on December 7, 1982, to cover in former national class 14.30, “*jewellery and its imitations*”;
- Registration 909996881, SOUZA CRUZ (combined), registered on January 16, 2018, to cover in international class 11, “*heating, steaming and vaporizing devices for tobacco; electric heating devices for tobacco and tobacco products; lighting, heating, steaming, cooking, refrigeration, drying, ventilation, water distribution apparatus and sanitary installations*”;
- Registration 909996792, SOUZA CRUZ (combined), registered on July 10, 2018, to cover in international class 34, “*electronic cigarettes; electronic devices for transporting electronic cigarettes; cases for electronic cigarettes; electronic and electrical devices for producing cigarette vapor; electronic and electrical devices for heating tobacco; parts and accessories for use in connection with electronic cigarettes or tobacco heating devices*”<sup>1</sup>.

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<sup>1</sup> The panel noted that the WIPO Global Brand Database excerpt, in Annex 8 of the Complaint, indicates that this registration 909996792 covered goods in classes 9 and 34. The Complainant also attached to the complaint in Annex 8, the corresponding excerpt of the same registration from the Brazilian National Institute of Industrial Property (BNIIP). The latter, displays that class 9 was deleted. Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) section 4.8. Accordingly, to clarify this issue, the panel accessed the file no. 909996792 at the BNIIP’s database and ascertained that the application was filed in class 9. During the application proceeding the class of goods was amended from 9 to 34, to better fit the specification of goods. The registration certificate no. 909996792, for the combined mark SOUZA CRUZ, as available at the BNIIP’s database, was issued only in connection with class 34, to cover *electronic cigarettes; electronic devices for transporting electronic cigarettes; cases for electronic cigarettes; electronic and electrical devices for producing cigarette vapor; electronic and electrical devices for heating tobacco; parts and accessories for use in connection with electronic cigarettes or tobacco heating devices*.

The disputed domain name was registered on February 3, 2025.

All the above trademark registrations in the name of the Complainant predate the registration date of the disputed domain name.

The Complainant owns the domain name <souzacruz.com>, registered on August 16, 1999, prior to the disputed domain name.<sup>2</sup>

When created on February 3, 2025, the disputed domain name resolved to an active website with the Complainant's registered mark and (previous) logotype (Annex 6 of the Complaint).

The website displayed a message advising that the website launch was intended to improve the online shopping experience. There were icons on that website reading "catalogue" and "contact us" and a copyright notice " 2023 Souza Cruz [...]" in the footer of the website, featuring the Complainant's address (Annex 6 of the Complaint).

The Respondent is RAIONE SANTOS REIS, an individual reportedly based in Brazil.

The Complainant had already brought two similar complaints against the same Respondent under the UDRP. See *Souza Cruz Ltda v. Raione Santos Reis, Raione Santos Reis*, WIPO Case No. [D2024-4859](#), and *Souza Cruz Ltda v. Raione Santos Reis*, WIPO Case No. [D2024-4856](#). Both past cases were decided in favor of the Complainant.

Currently, the website at the disputed domain name resolves to a page that is inactive and displays the notice "This store is unavailable" (Annex 7 of the Complaint).

## 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 incorporates the Complainant's SOUZA CRUZ name and mark in its entirety, with the addition of the term "pedidos", which is a translation into Portuguese of "orders" and/or "requests" (Annex 9 of the Complaint).

The Complainant further argues that its mark is well known and the addition of the expression "pedidos" is not sufficient to avoid the possibility of confusion. In fact, the Complainant's trademark SOUZA CRUZ remains clearly recognizable in the disputed domain name <souzacruzpedidos.com>. Moreover, the generic Top-Level Domain ("gTLD") ".com" can be ignored when comparing the registered mark and the disputed domain name, because it is only there for technical reasons.

Given the above, the disputed domain name is confusingly similar to the Complainant's registered trademark.

The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name because:

- 1) it found no evidence that the Respondent has been commonly known as "Souza cruz" or "Souza Cruz Pedidos" prior to or after the registration of the disputed domain name. The Respondent is not a licensee of

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<sup>2</sup> The Panel undertook limited factual research into matters of public record, as provided for in paragraphs 10 and 12 of the Rules. Accordingly, the panel has searched the publicly available Whois records at "www.lookup.icann.org".

the Complainant and has not received any permission or consent from the Complainant to use its SOUZA CRUZ mark. The Respondent and the disputed domain name are not part of the Complainant's distribution network, or connected with the Complainant;

- 2) the Complainant has found no evidence that the Respondent owns any trademarks incorporating the terms "Souza cruz" or "Souza Cruz Pedidos". Likewise, the Complainant has found no evidence that the Respondent has ever traded legitimately under the names "Souza cruz" or "Souza Cruz Pedidos";
- 3) the Respondent cannot claim fair use of the disputed domain name, as the disputed domain name triggers a false connection between the Respondent and the Complainant;
- 4) the Respondent had already registered domain names unduly encompassing the Complainant's registered trademarks (<souzacruzdistribuidora.com>; <souzacruzsa.com>), and as a result of past UDRP proceedings those domain names were transferred to the Complainant;
- 5) the disputed domain name is not used in connection with a bona fide offering of goods or services;
- 6) the Respondent's initial use of the Complainant's SOUZA CRUZ mark and logotype, address and self-identification as "Souza Cruz" impersonated the Complainant (Annex 6 of the Complaint);
- 7) the Respondent targeted the Complainant in order to deceive Internet users into believing that the website was operated by or associated with the Complainant. The website that corresponded to the disputed domain name did not contain any prominent disclaimers or make clear the lack of a relationship between the Parties, and thus, the disputed domain name could not relate to a genuine, bona fide offering of goods and services. Such use could not grant the Respondent a legitimate interest in the disputed domain name; and
- 8) lately, the Respondent's change on the website to disable it, in addition to the evidence that it carries no activity, constitutes passive holding and the Respondent cannot obtain or derive any rights or legitimate interests through its passive holding of the disputed domain name.

The Complainant also asserts that it sought to establish a prima facie case, and consequently demonstrated that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant contends that the Respondent has registered and is using the domain name in bad faith based on the fact that the Respondent has engaged in a pattern of registering domain names unduly, as it is already the third time that the Respondent registers a domain name that contains the Complainant's name and trademark. Consequently, the Respondent knew or should have known the Complainant's well-known trademark, especially because when the disputed domain name was registered, the Respondent was impersonating the Complainant.

The initial website that corresponded to the disputed domain name evidenced that the Respondent intended to attract Internet users through confusion by impersonating the Complainant. That confusing website demonstrated the Respondent's intention to mislead Internet users into believing its website was an authorized website, or at least affiliated with or endorsed by the Complainant. Such misleading use demonstrates that the disputed domain name was registered and used in bad faith according to the terms of the Policy.

Furthermore, the Complainant contends that the Respondent later changed the website contents. When the Complainant submitted the Complaint, the Respondent was passively holding the disputed domain name, which also constitutes bad faith. Finally, the Complainant suggested that the Respondent has not provided the Registrar with its complete address, because the house number was missing, and has failed to keep its contact information updated.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, for the transfer of the disputed domain name the Complainant must establish that:

- (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 Rules determine that if the Respondent does not comply with the time periods established nor any provision or requirements under paragraphs 14 (a) and 14 (b) of the Rules, the Panel shall proceed to a decision on the complaint and draw inferences as it considers appropriate.

Per paragraph 15(a) of the Rules, a Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

The Panel has reviewed the case and found the following:

### **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 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. Therefore, the Panel finds the mark is recognizable 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, "pedidos", may bear on assessment of the second and third elements, the Panel finds the addition of such a term 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 has disregarded the gTLD, in this case ".com", because it reflects a standard registration requirement and as such can be disregarded under the first element confusing similarity test, in accordance with section 1.11.1 of the [WIPO Overview 3.0](#).

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 Respondent defaulted and has failed to prove (i) before any notice of the dispute, its use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or (ii) being commonly known by the disputed domain name, even if it had acquired no trademark or service mark rights; or (iii) a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel notes that the disputed domain name incorporates the Complainant’s trademark together with the term “pedidos” (translated as “orders”/“requests” from Portuguese) that is within the Complainant’s field of commerce. The composition of the disputed domain name coupled with its previous use signals, in the Panel’s view, an intention on the part of the Respondent to mislead Internet users into believing its website was operated or endorsed by the Complainant.

In this regard, Annex 6 of the Complaint showed that the Respondent reproduced the Complainant’s SOUZA CRUZ mark and its old logotype at the top of the site; the copyright notice identified the website operator as “Souza Cruz” in the website’s footer; and the use of the Complainant’s Brazilian company address is misleading and cannot support fair use of the disputed domain name. This evidence, which was not contested by the Respondent, supports the finding that the disputed domain name cannot be qualified as fair use.

Furthermore, by registering for the third time a domain name which bears the Complainant’s trademark, it appears that the Respondent has engaged in a pattern of registering domain names corresponding to marks held by the Complainant. See section 2.5.2 of the [WIPO Overview 3.0](#).

The Respondent has, at least twice, registered prior domain names which reproduced the Complainant’s trademarks. See *Souza Cruz Ltda v. Raione Santos Reis, Raione Santos Reis*, WIPO Case No. [D2024-4859](#) and *Souza Cruz Ltda v. Raione Santos Reis*, WIPO Case No. [D2024-4856](#). In both cases, the panels ordered the transfer of a domain name in favor of the Complainant.

The combination of the above facts demonstrates that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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 has engaged in a (ii) pattern of bad faith conduct; and (iv) intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the complainant's mark.

As mentioned in section 6.B above, the Respondent has repeatedly registered domain names bearing the Complainant's trademark without authorization. This behavior characterizes engagement in a pattern of bad faith conduct, per [WIPO Overview 3.0](#), section 3.1.2. In a similar case, the Panel reached the same conclusion. See *Salvatore Ferragamo S.p.A v. Ying Cho*, WIPO Case No. [D2013-2034](#).

The two previous UDRP decisions against the Respondent, in cases brought by the same Complainant demonstrate that the Respondent could not have been unaware of the Complainant's trademark.

The Complainant contends that the Respondent is not a part of the Complainant's distribution network or otherwise connected with the Complainant. Annex 6 of the Complaint showed that the Respondent appears to have intentionally impersonated the Complainant.

Therefore, the Panel infers that by registering and using in the manner described above the disputed domain name which reproduces the Complainant's trademark entirely, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

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.

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.

Although initially impersonating the Complainant, currently, the disputed domain name resolves to a page displaying the notice that there was an error and the store is unavailable.

Having reviewed the available record, the Panel considered the following factors to apply the passive holding doctrine and additional bad faith consideration factors, according to the [WIPO Overview 3.0](#), section 3.3:

- (i) the degree of distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain name;
- (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use;
- (iii) previous use of the disputed domain name.

In the circumstances of this case the current passive holding of the disputed domain name in combination with all the described factors does not prevent a finding of bad faith under the Policy. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). Rather, the Panel finds that the change in use reinforces the finding that there was no good faith intention behind the registration and prior use of the disputed domain name.

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 <souzacruzpedidos.com> be transferred to the Complainant.

*/Paula Bezerra de Menezes/*

**Paula Bezerra de Menezes**

Sole Panelist

Date: July 1, 2025