

ADMINISTRATIVE PANEL DECISION

Harley-Davidson Motor Company, Inc. v. Eliezer Rosario
Case No. D2025-2078

1. The Parties

Complainant is Harley-Davidson Motor Company, Inc., United States of America, represented by Briffa, United Kingdom.

Respondent is Eliezer Rosario, United States of America.

2. The Domain Name and Registrar

The disputed domain name <harley-davidsonsalestore.shop> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 23, 2025. On May 26, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the 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 Respondent of the Complaint, and the proceedings commenced on May 27, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 16, 2025. Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 26, 2025.

The Center appointed Phillip V. Marano as the sole panelist in this matter on July 7, 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, retailer, and distributor of motorcycles and related goods. Complainant offers its goods through its official <harley-davidson.com> domain name and website. Complainant owns valid and subsisting registrations for the HARLEY-DAVIDSON trademark in the United Kingdom, including Registration Number UK00901172329 filed on May 14, 1999 and registered on August 7, 2000 (although Complainant has also cited a first use date of 1903).

Respondent registered the disputed domain name on January 13, 2025. Complainant has alleged prior use of the disputed domain name by Respondent in connection with illegal activity, specifically the sale of counterfeit HARLEY-DAVIDSON branded goods. Currently, the disputed domain name does not resolve to any website content.

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 asserts ownership of the HARLEY-DAVIDSON trademark and has adduced evidence of trademark registrations in the United Kingdom, with earliest priority dating back to May 14, 1999. The disputed domain name is confusingly similar to Complainant's HARLEY-DAVIDSON trademark, according to Complainant, because it is visually identical save for the addition of descriptive, or generic terms such as "sale" and "store".

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain name based on: the well-known nature of Complainant's HARLEY-DAVIDSON trademark, which long predates registration of the disputed domain name; the lack of any license or authorization from Complainant to Respondent; the implied affiliation the disputed domain name creates between Respondent and Complainant; the descriptive nature of the ".shop" Top-Level Domain in relation to Complainant's goods; and Respondent's use in connection with illegal activity, specifically sale of counterfeit HARLEY-DAVIDSON branded goods which Complainant does not manufacture or license.

Complainant argues that Respondent has registered and used the disputed domain name in bad faith for numerous reasons, including: the well-known nature of Complainant's HARLEY-DAVIDSON trademark; Respondent's alleged use of the disputed domain name in connection with illegal activity, specifically the sale of counterfeit goods; and Respondent's use of a proxy registration service to obscure its identity.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in its Complaint, Complainant must establish in accordance with paragraph 4(a) of the Policy:

- i. The disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights;
- 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.

Although Respondent did not reply to Complainant's contentions, the burden remains with Complainant to establish by a balance of probabilities, or a preponderance of the evidence, all three elements of paragraph 4(a) of the Policy. A respondent's default would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. UDRP panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case, e.g. where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.2 and 4.3; see also *The Vanguard Group, Inc. v. Loma Kang*, WIPO Case No. [D2002-1064](#) ("The Respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still prove each of the three elements required by Policy paragraph 4(a)").

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 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. Complainant submitted evidence that the HARLEY-DAVIDSON trademark has been registered in the United Kingdom with priority dating back to May 14, 1999.

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. Although the addition of other descriptive terms, here "sale" and "store", 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.

Based on the undisputed facts and circumstances in the record before it, the Panel finds that Respondent is not using the disputed domain names in connection with a bona fide offering of goods or services. This is especially the case where a disputed domain name is so obviously connected with a complainant and its products, the very use by a registrant with no connection to a complainant suggests opportunistic bad faith.

The Panel concludes from the record that Respondent had Complainant's HARLEY-DAVIDSON trademark in mind when registering the disputed domain name, and that Respondent most likely registered the disputed domain name in order to exploit and profit from Complainant's trademark rights. Indeed, a respondent who knowingly adopted a third party's well-known mark as a domain name cannot claim the benefit of paragraph 4(c)(i) of the Policy to establish rights to the domain name based on its mere use of the domain name to offer goods or services prior to the notice of a dispute. *Scania CV AB v. Leif Westlye*, WIPO Case No. [D2000-0169](#); see also *Drexel University v. David Brouda*, WIPO Case No. [D2001-0067](#) ("rights or legitimate interests cannot be created where the user of the domain name at issue would not choose such a name unless he was seeking to create an impression of association with the complainant").

Complainant has alleged prior use of the disputed domain name by Respondent in connection with illegal activity, specifically the sale of counterfeit HARLEY-DAVIDSON branded goods. Although Complainant has offered to "if required, ... provide a witness statement confirming this", the record as it stands does not contain any evidence (such as Internet Archive screengrabs, consumer complaints, or so-called "trap purchases") from which the Panel might corroborate such illegal activity. See e.g. [WIPO Overview 3.0](#), section 2.13.2 (with further evidentiary examples listed). Nevertheless, Respondent has passively held the disputed domain name, which in and of itself does not constitute a bona fide offering of goods or services. *Philip Morris USA Inc. v. Gabriel Hall*, WIPO Case No. [D2015-1779](#); *Teachers Insurance and Annuity Association of America v. Wrecks Communications Group*, WIPO Case No. [D2006-0483](#) ("[A]bsent some contrary evidence from Respondent, passive holding of a Domain Name does not constitute legitimate noncommercial or fair use").

Therefore, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy proscribes the following non-exhaustive circumstances as evidence of bad faith registration and use of the disputed domain name:

- i. Circumstances indicating that Respondent has registered or Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark to a competitor of that Complainant, for valuable consideration in excess of Respondent's documented out of pocket costs directly related to the disputed domain name; or
- ii. Respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- iii. Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. By using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating a descriptive term) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith (particularly where no conceivable good faith use could be made). [WIPO Overview 3.0](#), Section 3.1.4. Complainant has adduced evidence of recognition of the HARLEY-DAVIDSON trademark and cited several WIPO UDRP panel determinations in agreement that Complainant's HARLEY-DAVIDSON trademark is considered to be "well-known" or "famous". See e.g. *H-D Michigan, Inc. v. Metal Horse Motorcycles*, WIPO Case No. [D2003-0781](#) ("Complainant's trademarks are well-known..."); *H-D U.S.A., LLC v. After Hours Home Physio a.k.a. Shadex Industries P/L a.k.a.*

Queensland Performance Pty Ltd, WIPO Case No. [D2014-2168](#) (“Harley-Davidson motorcycles are extremely well known especially amongst motorcycle enthusiasts”); *H-D U.S.A., LLC v. Privacyguardian.org/Atomic Art*, WIPO Case No. [D2021-1623](#) (“Being such a distinctive and well-known mark...”). As such, the Panel finds it is unconceivable that Respondent could have registered the disputed domain name without knowledge of Complainant’s HARLEY-DAVIDSON trademark, without any intention to benefit from confusion with Complainant’s mark.

For the reasons explained above, the Panel will not address Complainant’s allegations concerning illegal activity or counterfeit sales. However, passively holding a domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3. This includes domain names that do not resolve to any website content as well as domain names that are parked with a “coming soon” message or other similar content. Where a domain name is being passively held, as apparent based on the evidence in this case, bad faith registration and use exists based upon: (i) the degree of distinctiveness or reputation of the complainant’s mark; (ii) the failure of the respondent to submit any response or offer any credible evidence of rights or legitimate interests; (iii) the respondent’s concealing its identity or use of false contact details; and (iv) the implausibility of any good faith use which the domain name may be put. See *Id.* See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) (“A remedy can be obtained under the Policy only if those circumstances show that the Respondent’s passive holding amounts to acting in bad faith.”)

To that end, the Panel acknowledges the multitude of prior panel decisions under the Policy cited by Complainant concluding that Complainant’s HARLEY-DAVIDSON trademark is “well-known”. In the Panel’s view, these same prior panel decisions, coupled with the evidence Complainant proffered to establish the renown of the HARLEY-DAVIDSON marks amongst independent third parties and consumers, make any good faith use of the disputed domain name relatively implausible. Furthermore, the Panel acknowledges Respondent’s failure to participate in this proceeding and failure offer any credible evidence of rights or legitimate interests. And finally, the Panel acknowledges Respondent’s either intentional or default use of a proxy registration service, thus concealing its identity from Complainant.

Accordingly, the Panel finds the third element of the Policy has been established.

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 <harley-davidsonsalestore.shop> be transferred to Complainant.

/Phillip V. Marano/

Phillip V. Marano

Sole Panelist

Date: July 15, 2025