

ADMINISTRATIVE PANEL DECISION

Sanpellegrino S.p.A. v. Marko Tyson

Case No. D2025-2093

1. The Parties

The Complainant is Sanpellegrino S.p.A., Italy, represented by Studio Barbero S.p.A., Italy.

The Respondent is Marko Tyson, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <sanpellegrino.ink> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 27, 2025. On May 28, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 29, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 30, 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 amendment to the Complaint on May 30, 2025.

The Center verified that the Complaint together with the amendment to 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 June 2, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 23, 2025.

The Center appointed Wilson Pinheiro Jabur 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

The Complainant is an Italian company founded in San Pellegrino Terme, Italy in 1899 (Annex 4.1 to the Complaint) that exploits the mineral water and soft drinks industry. In 1998, the Complainant was acquired by the Nestlé Group, having, in 2010, the sales of SANPELLEGRINO natural mineral water and SANPELLEGRINO sparkling fruit beverages around the world reached a total of 1 billion bottles in a single year.

The Complainant is the owner of, amongst numerous others, the following trademark registrations for SANPELLEGRINO (Annex 3 to the Complaint):

- International Trademark Registration. No. 426768 for SANPELLEGRINO (word mark) registered on November 03, 1976, subsequently renewed, in classes 32 and 33;
- European Union Trademark Registration No. 000069310 for SANPELLEGRINO (word mark), filed on April 1, 1996, and registered on May 11, 1999, subsequently renewed, in classes 3, 32, and 33; and
- United States Trademark Registration No. 1005896 for SANPELLEGRINO (word mark), filed on January 17, 1974, and registered on March 04, 1975, subsequently renewed, in international class 32;

The disputed domain name was registered on September 26, 2024. In the past, the disputed domain name was used in connection with a registrar parking page featuring sponsored links, also related to Complainant's competitors (Annex 6 to the Complaint).

Furthermore, the disputed domain name has active mail servers associated with it (Annex 10 to the Complaint), having the Complainant received reports from Internet users who received fraudulent email communications impersonating the Complainant concerning purported cooperation offers from the email address "[...]"@sanpellegrino.ink" (Annex 7 to the Complaint).

A representative of the Complainant sent an email communication to the Respondent on October 25, 2024, requesting to immediately cease any use of the disputed domain name and transfer it to Complainant, but no reply was received (Annex 8 to the Complaint), followed by an abuse report sent to the Registrar on October 25, 2024 (Annex 9 to the Complaint), which however did not suspend the disputed domain name.

Presently, no active webpage resolves from the disputed domain name.

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 asserts to distribute its "extraordinary mineral waters", non-alcoholic aperitifs and soft drinks - all branded under the SANPELLEGRINO trademark - in over 120 countries across all five continents. The Complainant further asserts to have invested substantial resources in advertising, marketing and sales efforts. As a result of the 125 years of continue and widespread use, the SANPELLEGRINO trademark has undoubtedly become a well-known trademark worldwide.

Under the Complainant's view, the disputed domain name incorporates the Complainant's well-known SANPELLEGRINO trademark in its entirety, therefore being identical to it.

Regarding the absence of the Respondent's rights or legitimate interests, the Complainant argues that:

- i) the Respondent is not commonly known by a name corresponding to the disputed domain name as an individual, business, or other organization, nor has the Respondent been commonly known by the disputed domain name before any notice of the dispute;
- ii) the Complainant has not authorized the Respondent's registration and use of the disputed domain name;
- iii) the Respondent has not provided any evidence of use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services before or after any notice of the dispute;
- iv) the disputed domain name has been used for fraudulent purposes, since the Respondent has created an email address based on <sanpellegrino.ink>, "[...].@sanpellegrino.ink", to impersonate the Complainant in messages sent to Internet users proposing false collaborations with the Complainant;
- v) the Respondent never intended to use the disputed domain name in connection with any legitimate purpose;
- vi) the disputed domain name has been used to redirected Internet users to a webpage displaying several sponsored links, which generate revenues, via the pay-per-click ("PPC") system; and
- vii) the Respondent did not reply to the email communication sent by the Complainant's representative notifying the infringement of the Complainant's rights.

As to the registration and use of the disputed domain names in bad faith, the Complainant asserts that:

- i) the misappropriation of a well-known trademark as a domain name by itself constitutes bad faith registration for the purposes of the Policy, as also recognized in Section 3.1.4 of the [WIPO Overview 3.0](#);
- ii) the Respondent's actual knowledge of the Complainant and its SANPELLEGRINO trademark is clearly demonstrated by the creation of an email address used as part of a scam campaign involving the use of the Complainant's trademark and corporate information in e-mails sent to Internet users proposing opportunities to collaborate with the Complainant by posing as the Complainant;
- iii) the use of a domain name for the purpose of defrauding Internet users by the operation of fraudulent or phishing schemes is perhaps the clearest evidence of registration and use of a domain name in bad faith;
- iv) the use of the disputed domain name in connection with a webpage where Internet users can find pay-per-click links leading users to third-party websites also dedicated to products of Complainant's competitors further indicates the Respondent's bad faith; and
- v) lastly, the Respondent failed to reply to the email communication sent by the Complainant's representative notifying the infringement of the Complainant's rights and demanding the cease of any use and the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (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 Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute 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 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 SANPELLEGRINO mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name. This entitles the Panel to draw any inferences from such default, as it considers appropriate, pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make at least a prima facie case against the Respondent under the second UDRP element.

In that sense, and according to the evidence submitted, the Complainant has made a *prime facie* case against the Respondent whom has not been commonly known by the disputed domain name and is neither a licensee, authorized agent of the Complainant or in any other way authorized to use the Complainant's trademark, specifically not being the Respondent an authorized reseller of the Complainant and never having been authorized to register and use the disputed domain name.

Also, the lack of evidence as to any trademarks registered by the Respondent corresponding to the disputed domain name, corroborates the indication of an absence of rights or legitimate interests in the disputed domain name.

Moreover, according to the evidence submitted by the Complainant, the use made of the disputed domain name in connection with fraudulent emails impersonating the Complainant clearly does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name in these circumstances. [WIPO Overview 3.0](#), section 2.13.1.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of a disputed domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other on-line location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In this case, both the registration and use of the disputed domain name in bad faith can be found pursuant to Policy, paragraph 4(b)(iv), in view of the fraudulent e-mails impersonating the Complainant sent via the disputed domain name, as well as the PPC links in the webpage that resolved from the disputed domain name.

Moreover, the bad faith of the Respondent is also supported here by (i) the choice to retain a privacy protection service in an attempt to conceal the Respondent's true identity; (ii) the lack of reply by the Respondent invoking any rights or legitimate interests; (iii) the lack of reply to the cease-and-desist letter and reminders sent prior to this procedure and (iv) the indication of false or incomplete information used by the Respondent for registering the disputed domain name, since the Written Notice was undeliverable to the Respondent by courier service.

For the reasons above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy. The third element of the Policy has therefore been met.

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 <sanpellegrino.ink> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: July 14, 2025