

ADMINISTRATIVE PANEL DECISION

OTTO'S AG v. Theresa Chavez

Case No. D2025-3557

1. The Parties

The Complainant is OTTO'S AG, Switzerland, represented by Walder Wyss AG, Switzerland.

The Respondent is Theresa Chavez, United States of America.

2. The Domain Name and Registrar

The disputed domain name <otto-store.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 September 3, 2025. On September 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 3, 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 (unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 4, 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 amended Complaint on September 8, 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 September 8, 2025. In accordance with the Rules, paragraph 5, the due date for Response was September 28, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 29, 2025.

The Center appointed Iris Quadrio as the sole panelist in this matter on October 6, 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 a Swiss discount retailer operating more than 100 outlets across Switzerland. In addition to its brick and mortar stores, the Complainant operates an online shop selling a wide range of products, including household goods, food and beverages, clothing, furniture, and electronics.

The Complainant uses its OTTO'S trademarks in commerce in connection with its retail and online sales activities, including for the promotion and sale of its products through its official website, accessible at "www.ottos.ch". The Complainant has built a strong reputation in Switzerland as one of the country's leading discount retail chains.

The Complainant is the owner of the wordmark and figurative trademarks "OTTO'S", registered with the Swiss Federal Institute of Intellectual Property under Reg. No. 462929, covering classes 3, 8, 9, 14, 18, 20, 21, 25, 27, 28, 32, 35, 38, and 39, since July 13, 1999, and under Reg. No. 473105 for the same classes, since June 8, 2000.

The disputed domain name was registered on November 20, 2024, and it previously resolved to a website that reproduced the overall look and feel of the Complainant's official site, including its main features, displaying the Complainant's trademarks and logos, and appeared to offer the same type of services as those provided by the Complainant. Currently it resolves to an inactive website.

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 states that the disputed domain name is confusingly similar to its trademark OTTO'S, and to its official domain name.

The Complainant contends that the Respondent has no rights or legitimate interest in respect of the disputed domain name, nor is he related in any way to the Complainant. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark OTTO'S or apply for registration of the disputed domain name.

More specifically, the Complainant alleges that the Respondent has not used and/or has no demonstrable intention to use the disputed domain name except to create a likelihood of confusion with the Complainant's trademark. In fact, the Complainant claims that the Respondent has selected the disputed domain name only to intentionally lead internet users to believe they are accessing the Complainant's website.

Finally, the Complainant has requested the Panel to issue a decision ordering 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

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interest in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

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 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 "store", may bear on assessment of the second and third elements, the Panel finds the addition of such 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.

Moreover, the ".shop" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of [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.

The Complainant has claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the trademark OTTO'S. In addition, there is no other evidence in the file suggesting that the Respondent has or could have had rights or legitimate interests in the disputed domain name. Also, the Complainant has prior rights in the OTTO'S trademark, which clearly precede the Respondent's registration of the disputed domain name.

Likewise, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name. On the contrary, the Complainant has proven on Annexes 9 and 10, that the Respondent's previous use of the disputed domain name is intended to benefit from Complainant's reputation by confusing Internet users, incorporating Complainant's trademarks and leading them to believe that the site to which the disputed domain name relates is an official site of the Complainant. Hence, as established in section 2.5 of [WIPO Overview 3.0](#): "Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry."

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Complainant has submitted evidence to support that the trademark OTTO'S is widely known and that it was registered and used many years before the Respondent registered the disputed domain name. When registering the domain name, the Respondent has targeted the Complainant's trademark OTTO'S to generate confusion among Internet users and benefit from the Complainant's reputation.

Therefore, the Panel is satisfied that the Respondent must have been aware of the Complainant and of the Complainant's trademark OTTO'S when it registered the disputed domain name. Consequently, and in accordance with Section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the term "store" together with the Complainant's trademark creates a presumption that the disputed domain name was registered on a bad faith basis.

In addition, as mentioned above, the disputed domain name resolved to a website imitating the Complainant's official website and displaying the Complainant's trademarks. The Panel finds that the Respondent's use of the disputed domain name was intended to attract and mislead internet users when searching for the Complainant's website and to redirect them to a website from which the Respondent derives commercial revenue by creating a likelihood of confusion with the Complainant's trademark and that such use constitutes bad faith under paragraph 4(b)(iv) of the Policy.

Currently, the disputed domain name resolves to an inactive website. The Panel finds that the non-use of disputed domain name (including a blank or "coming soon" page) does not prevent a finding of bad faith under the doctrine of passive holding in the circumstances of this case. [WIPO Overview 3.0](#), section 3.3.

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 <otto-store.shop> be transferred to the Complainant.

/Iris Quadrio/

Iris Quadrio

Sole Panelist

Date: October 23, 2025