

ADMINISTRATIVE PANEL DECISION

ROSAS DON ELOY S.A.S. v. William Fonseca, Creaciones Express

Case No. D2026-0035

1. The Parties

The Complainant is rosas don eloy S.A.S., Colombia, represented by Brigard & Castro, Colombia.

The Respondent is William Fonseca, Creaciones Express, Colombia

2. The Domain Name and Registrar

The disputed domain name <rosaseloy.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 6, 2026. On January 7, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 7, 2026, 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 / “Domain Administrator”) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 8, 2026, 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 January 9, 2026.

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 January 14, 2026. In accordance with the Rules, paragraph 5, the due date for Response was February 3, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 4, 2026.

The Center appointed Daniel Peña as the sole panelist in this matter on February 9, 2026. 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 leading luxury floral company in Colombia, specializing in premium-quality roses, exclusive floral arrangements, and personalized gifting experiences. It operates boutiques and an online store in major Colombian cities, including Bogotá, Medellín, and Cali. The Complainant is widely recognized for its team of highly skilled floral designers and professionals, serving corporate clients, prestigious brands, and individual customers both domestically and internationally.

The Complainant owns registered trademarks in Colombia for DON ELOY ROSAS and DON ELOY BOUTIQUE, covering goods and services in Classes 31 and 42.

- DON ELOY ROSAS (Logo) (Class 42, Reg. No. 194753), registered on February 27, 1997, valid until February 27, 2027.
- DON ELOY BOUTIQUE (Logo) (Class 31, Reg. No. 491351), registered on April 23, 2014, valid until April 23, 2034.

The disputed domain name was registered on September 16, 2025, long after the Complainant's trademarks had been registered. The disputed domain name is being used to operate a website that purports to be a luxury floral boutique, imitating the Complainant's branding and targeting the same consumer segment.

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 is confusingly similar to its trademarks DON ELOY ROSAS and DON ELOY BOUTIQUE, as it reproduces the distinctive elements of the marks with only the omission of the expression "don". This minimal change does not prevent confusion and instead reinforces association with the Complainant's brand.

The Complainant emphasizes that its marks are unique, with no specific meaning in English or Spanish, and originate from a distinctive combination of family tradition and homage to Eloy Valenzuela y Mantilla. It is therefore unlikely that a third party would independently create such an expression.

The Respondent's website presents itself as a luxury floral boutique, using similar branding concepts and targeting the same market segment, which increases the likelihood of consumer confusion. The Complainant further asserts that the Respondent has no rights or legitimate interests in the disputed domain name, as it was never authorized to use the Complainant's trademarks and has not acquired any rights over them.

Finally, the Complainant maintains that the Respondent registered and is using the disputed domain name in bad faith, with full knowledge of the Complainant's reputation and longstanding trademark rights. The Respondent's conduct demonstrates an intent to exploit the Complainant's goodwill, mislead consumers, and unfairly benefit from the Complainant's established recognition, falling within Paragraph 4(b)(iii) of the UDRP Policy.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Under Paragraph 4(a)(i) of the Policy, the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which it has rights.

The Complainant has demonstrated registered rights in the trademarks DON ELOY ROSAS (registered in 1997) and DON ELOY BOUTIQUE (registered in 2014) in Colombia. These marks have been used extensively in connection with luxury floral arrangements and premium roses, and are distinctive in nature, having no common meaning in English or Spanish. The Panel finds that the Complainant has shown rights in respect of the trademarks for the purposes of the Policy (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.1](#)”), section 1.2.1). The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks.

The Panel notes that both of the Complainant’s trademarks have in common the elements “DON ELOY”. The disputed domain name incorporates dominant elements of the Complainant’s marks, namely “Rosas” and “Eloy,” and differs only by the omission of the word “Don”. Such omission does not prevent a finding of confusing similarity, as the resulting domain name reproduces a dominant elements of the Complainant’s trademarks. From an orthographic, phonetic, conceptual, and visual perspective, the disputed domain name is nearly identical to the Complainant’s marks. The mere addition or omission of a term does not prevent a finding of confusing similarity where the trademark remains recognizable within the domain name. Here, the Complainant’s marks are clearly recognizable in the disputed domain name [WIPO Overview 3.1](#), section 1.8.

Furthermore, the generic Top-Level Domain (“gTLD”) “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.1](#), section 1.11.1.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks within the meaning of Paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under Paragraph 4(a)(ii) of the Policy, the Complainant must establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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 3.1](#), section 2.1.

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 Complainant asserts that it has no relationship with the Respondent and has not authorized the Respondent to use its trademarks or trade name. The Respondent has not acquired any rights over the Complainant's trademarks, nor has it been licensed or permitted to use these marks in any manner. The Complainant has also demonstrated that the Respondent is not commonly known by the disputed domain name and has not established any legitimate noncommercial or fair use of it.

The Panel further finds that the mark DON ELOY ROSAS and DON ELOY BOUTIQUE has no inherent meaning in either English or Spanish and is not commonly used by consumers. It is derived from the name of Eloy Valenzuela, a 19th-century scientist in Colombia, participant in the famous Royal Botanical Expedition of New Granada.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of Paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under Paragraph 4(a)(iii) of the Policy, the Complainant must demonstrate that the disputed domain name was registered and is being used in bad faith.

The Complainant's trademarks DON ELOY ROSAS and DON ELOY BOUTIQUE were registered well before the Respondent's registration of the disputed domain name. The Panel further notes that the Parties seem to have an address located in Colombia. The disputed domain name reproduces dominant elements of the Complainant's marks, differing only by the omission of "don," which indicates that the Respondent was aware of the Complainant's rights at the time of registration.

The Panel finds that the Respondent's website, which promotes luxury floral arrangements, operates in direct competition with the Complainant's business and targets the same consumer segment. Such conduct evidences an intent to capitalize on the Complainant's established goodwill by creating a likelihood of confusion as to source, sponsorship, or affiliation which, constitutes bad faith under paragraph 4(b)(iv) of the Policy and Section 3.1.4 of the [WIPO Overview 3.1](#).

In the present case, the Respondent's actions fall squarely within this principle, as the disputed domain name is being used to mislead consumers for commercial gain.

Accordingly, the Panel concludes that the disputed domain name was registered and is being used in bad faith within the meaning of Paragraph 4(a)(iii) 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 <rosaseloy.com> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: February 20, 2026