ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION

Action Holding B.V. v. Rubsan Rubsan Gombe
Case No. D2026-1389

1. The Parties

The Complainant is Action Holding B.V., Netherlands (Kingdom of the), represented by Novagraaf Nederland B.V., Netherlands (Kingdom of the).

The Respondent is Rubsan Rubsan Gombe, United States of America.

2. The Domain Name and Registrar

The disputed domain name <actionnl-vip.shop> is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 1, 2026. On April 1, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 4, 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 (Dynadot Privacy Service / Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 7, 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 amendment to the Complaint on April 7, 2026.

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 April 8, 2026. In accordance with the Rules, paragraph 5, the due date for Response was April 28, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 30, 2026.

The Center appointed Daniel Kraus as the sole panelist in this matter on May 6, 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 Dutch-based discount retail chain with more than 30 years of continuous operation. The Complainant operates more than 2,500 stores across more than 12 European countries, employs approximately 65,000 people, and generates annual revenues exceeding EUR 11 billion. In the Netherlands (Kingdom of the), the Complainant's home country, more than 400 stores are in operation. The Complainant is active under its principal domain name <action.com>.

The Complainant holds 76 registered trademarks for the ACTION sign across multiple territories. The following registrations are particularly relevant:

1. Benelux registration No. 615613 (word/device mark ACTION), registered on July 18, 1997, for services in Class 35;

2. European Union registration No. 011510575 (wordmark ACTION), registered on July 2, 2015, for goods and services in Classes 16, 21, and 35; and

3. International registration No. 1416222 (word/device mark ACTION), registered on January 26, 2018, with designation of China and Switzerland, for goods and services in Classes 16, 21, and 35.

As a result of long-standing use and significant commercial investment, the ACTION trademark has acquired strong distinctiveness and is considered a reputed and well-known mark, particularly in the Netherlands (Kingdom of the).

The disputed domain name was registered on February 6, 2026,

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the three elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name wholly incorporates the ACTION trademark in its entirety. The only variations consist of the addition of the geographical abbreviation "NL" (a reference to the Netherlands (Kingdom of the)), the descriptive term "VIP", and the generic Top-Level Domain ("gTLD") ".shop." These additions do not eliminate the likelihood of confusion; indeed, the addition of "NL" increases the likelihood of confusion as it directly references the Complainant's principal country of operation. Pursuant to WIPO Overview 3.1, section 1.8, the addition of descriptive or geographical terms does not prevent a finding of confusing similarity when the trademark is recognizable within the disputed domain name.

The Complainant further contends that the Respondent does not hold any trademark rights over ACTION, ACTION NL, or ACTION NL VIP, has never been known by any such name, and was not granted any license or authorization by the Complainant. The absence of such license or authorization constitutes prima facie evidence that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant also contends that the use of cloaking/device detection techniques to display infringing content solely to mobile users — while concealing such content from desktop-based enforcement tools — demonstrates that the Respondent is not engaged in a bona fide offering of goods or services, but rather in intentional and deceptive conduct. Such conduct can never confer rights or legitimate interests.

Finally, the Complainant contends that its ACTION trademark and domain name <action.com> significantly predate the registration of the disputed domain name. The Respondent's knowledge of the Complainant is evidenced by the use of the Complainant's trademarks and logos on the mobile version of the website. This constitutes a deliberate attempt to pass off as the Complainant, thereby creating a false impression of affiliation or endorsement, which constitutes registration and use in bad faith.

B. Respondent

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

6. Discussion and Findings

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 Select UDRP Questions ("WIPO Overview 3.1"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview 3.1, section 1.2.1. The Complainant holds multiple registered trademarks for the ACTION sign, the earliest dating to July 18, 1997 (Benelux registration No. 615613), all of which substantially predate the registration of the disputed domain name.

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 3.1, section 1.7.

Although the addition of other terms - here, "nl", "vip", and the gTLD ".shop" - 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 3.1, 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 that 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.

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.

There is no evidence that the Respondent: (i) has used or made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services; (ii) has been commonly known by the disputed domain name; or (iii) has made any legitimate noncommercial or fair use thereof. On the contrary, the Respondent appears to have used the disputed domain name for deceptive commercial purposes, impersonating the Complainant by displaying its trademarks and logos on the mobile version of the website while concealing such infringing content from desktop-based users through cloaking techniques.

Panels have held that the use of a domain name for illegitimate or illegal activity — here, passing off and impersonation of the Complainant through the use of its trademarks and logos, combined with device-detection/cloaking techniques to evade enforcement — can never confer rights or legitimate interests on a respondent. WIPO Overview 3.1, section 2.13.1.

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 registered the disputed domain name on February 6, 2026, nearly three decades after the Complainant's earliest trademark registration (July 18, 1997) and more than a decade after the European Union registration (January 23, 2013). The ACTION trademark is extensively used and widely known, particularly in the Netherlands (Kingdom of the), where the Complainant operates more than 400 retail stores. It is inconceivable that the Respondent, whose website incorporates the Complainant's own trademarks and logos, was unaware of the Complainant's rights at the time of registration. The Respondent's actual knowledge of the Complainant is conclusively demonstrated by the infringing content, including the Complainant's trademarks and device marks, displayed on the mobile version of the website.

The Respondent's use of device detection and cloaking techniques, serving infringing content exclusively to mobile users while displaying a blank or inactive page to desktop-based investigators, further demonstrates that the infringing conduct is intentional and calculated. Such behavior is a hallmark of deliberate bad faith, as it is designed to maximize the deceptive reach of the website while minimizing detection. The overall impression created is that the disputed domain name is an official or affiliated website of the Complainant in the Netherlands (suggested by the "NL" component), offering "VIP" promotions through a retail platform (suggested by "VIP" and the ".shop" gTLD, thereby attracting Internet users for commercial gain by exploiting the Complainant's well-known trademark. This conduct falls squarely within the circumstances described at paragraph 4(b)(iv) of the Policy.

Panels have held that the use of a domain name for illegal activity — here, passing off and impersonation of the Complainant through a copycat website deploying cloaking techniques — constitutes bad faith. WIPO Overview 3.1, section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <actionnl-vip.shop> be transferred to the Complainant

/Daniel Kraus/
Daniel Kraus
Sole Panelist
Date: May 20, 2026