ADMINISTRATIVE PANEL DECISION

Damiani International S.A. v. Andrea Rocca, Giuliana Bossi Rocca
Case No. D2026-2719

1. The Parties

The Complainant is Damiani International S.A., Switzerland, represented by Kivial s.r.l., Italy.

The Respondents are Andrea Rocca and Giuliana Bossi Rocca, Italy, represented by Chiomenti, Italy.

2. The Domain Name and Registrar

The disputed domain name <rocca.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 June 23, 2026. On June 23, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 23, 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 (Registration Private Domains By Proxy, LLC DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 24, 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 June 26, 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 June 30, 2026. In accordance with the Rules, paragraph 5, the due date for Response was July 20, 2026. The Respondents requested, on July 15, 2026, an additional four calendar days in which to respond to the Complaint as per paragraph 5(b) of the Rules, and the Center granted the extension on the same day, and the new due date for Response was July 24, 2026. The Response was filed with the Center July 23, 2026.

The Complainant filed a Supplemental Filing on July 28, 2026.

The Respondents filed a Supplemental Filing on July 31, 2026.

The Center appointed Steven A. Maier, Fabrizio Bedarida, and Edoardo Fano as panelists in this matter on August 19, 2026. The Panel finds that it was properly constituted. Each member of 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. Outstanding Procedural Matters

A. Identity of Respondent

According to the Registrar Verification provided in this proceeding, the registrant of the disputed domain name was Finco SRL, an entity located in Italy. The Complainant has submitted that it has not been possible to identify any entity of that name, and the Respondents have submitted that Finco SRL was a limited liability company, dissolved in 2012, of which Mr. Andrea Rocca was a 95 percent majority shareholder and Mrs. Giuliana Bossi Rocca the minority shareholder. The Respondents have further submitted that, upon that dissolution, under Italian national law, the assets of Finco SRL passed to its shareholders, and that the Respondents are therefore the current owners of the disputed domain name, Mrs. Giuliana Bossi Rocca having granted power to Mr. Andrea Rocca to defend their joint interests in the disputed domain name.

While the Respondents failed in 2012 or subsequently to update the registration details relating to the disputed domain name, being a matter with which the Complainant takes issue, the Panel determines nonetheless that the Respondent is the appropriate respondent in this proceeding.

For reasons of convenience, further references to “the Respondent” in this Decision shall designate Mr. Andrea Rocca, also acting on behalf of Mrs. Giuliana Bossi Rocca, save where the context otherwise dictates.

B. Unsolicited Supplemental Filings

The Complainant submits that the Response in this proceeding included submissions and evidence of which it could not have been aware at the date it filed the Complaint, including in particular details of the Respondent’s use of the disputed domain name for the purpose of family email accounts. It contends that it should therefore be permitted to file a supplemental submission addressing these matters.

The Respondent disputes the Complainant’s entitlement to file a supplemental submission, but contends that, if the Complainant is permitted to file a supplemental submission, the Respondent should also be permitted to file a supplemental submission by way of reply.

While the filing of unsolicited supplemental submissions is generally discouraged in proceedings under the UDRP, the Panel accepts in this case that the Response included submissions and evidence the nature and extent of which the Complainant could not readily have discovered prior to the filing of the Complaint. The Panel therefore determines that both the Complainant’s and the Respondent’s unsolicited Supplemental Filings should be admitted in the proceeding.

5. Factual Background

The Complainant is a retailer of luxury watches and jewellery, trading under the name and trademark ROCCA, through physical outlets in Italy, various other locations worldwide, and online.

The Complainant (or Damiani International B.V.) is the owner of various registrations for trademarks comprising or including the mark ROCCA. Those registrations include, for example:

- International trademark registration number 366576 for the word mark ROCCA, registered on March 12, 1970 in International Class 14, designating Albania, Austria, Benelux, Switzerland, China, France, Hungary, Liechtenstein, Morrocco, Serbia, Singapore;

- European Union Trade Mark registration number 006327548 for the word mark ROCCA, registered on September 1, 2008 in International Classes 8, 14, and 35; and

- European Union Trade Mark registration number 018232266 for a figurative mark ROCCA 1794, registered on August 13, 2020 in International Classes 14 and 35.

The Complainant operates a website at "www.rocca1794.com".

The disputed domain name was created on July 26, 1996. According to WhoIs details submitted by the Respondent, it was acquired by Finco SRL on October 4, 2001.

The Complainant provides evidence, derived from Archive.org, that:

- on February 25, 2009, the disputed domain name resolved to a webpage with a blue background, simply stating "Andrea Rocca" and "[…]@rocca.com"; and

- on February 22, 2010 and January 29, 2020, the disputed domain name resolved to a Registrar parking page.

The Complainant further provides a screenshot, claimed to be of June 22, 2026, to demonstrate that the disputed domain name still resolves to a Registrar placeholder page.

6. Parties' Contentions

A. Complainant

The Complainant submits that the ROCCA brand was founded by Alberto Rocca in Turin in 1872, and has been owned and operated by the Complainant since 2008. It states that it operates across Italy and worldwide, and is today recognized as a leading, multi-brand retailer in the jewellery and watch sector.

The Complainant exhibits promotional information stating that it currently operates 50 boutiques, including in airports and department store concessions, and is expanding into markets including India, Saudi Arabia, and the Republic of Korea. It submits that its website features 8,000 products across 35 luxury brands, and attracted six million page views in the previous year. It also claims social media engagement of over 70 million contacts.

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

The Complainant contends that the disputed domain name is identical to its ROCCA trademark.

The Complainant submits that the Respondent (identified as Finco SRL at the date of the Complaint) has no rights or legitimate interests in respect of the disputed domain name. It states that it has never licensed or authorized the Respondent to use its ROCCA trademark, and that the Respondent has not commonly been known by that name. It further contends that the disputed domain name has never been used for any legitimate business under the name "Rocca", and that the only connection with that name is an historical administrative contact derived from WhoIs details, namely, that as of March 11, 2009 the administrative contact for Finco SRL was shown as “Andrea Rocca”. The Complainant states that the current registration details for the disputed domain name do not reflect that name, and that a respondent invoking a personal name must, in any event, demonstrate a genuine use of the disputed domain name in connection with that name.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It exhibits the WhoIs records dated March 11, 2009, showing Finco SRL as the registrant and Andrea Rocca, with email address “[…]@rocca.com” as the administrative contact. It repeats, however, that it has been unable to determine the current ownership of the disputed domain name, that any connection with the historical contact Andrea Rocca is no longer current, and that there is no verifiable means of contacting the Respondent. It states that the disputed domain name has not been used to host any bona fide website after the reference to Andrea Rocca ceased in 2010.

The Complainant submits that, while mail exchange (“MX”) servers have been configured upon the disputed domain name, that does not of itself establish good faith use, and that the configuration appears to be a technical artifice designed to maintain the disputed domain name passively, rather than reflecting any genuine ongoing email use.

The Complainant concedes that the word “rocca” is a dictionary word in the Italian language, and is also commonly used as a surname. It submits that, while the historical use of the disputed domain name in connection with an individual bearing the “Rocca” surname may have been consistent with that meaning, the Respondent is not making any current public use of the disputed domain name in connection with any website, business, or personal activity that would demonstrate any continuing legitimate connection with that name.

The Complainant states that, while it did not bring any earlier complaint in respect of the disputed domain name, that is not of itself a defence under the UDRP, or a bar to the present Complaint succeeding. It states that it has acted now because “following the consolidation of the ROCCA brand and rights within the Damiani Group, has it [sic] become commercially and strategically necessary to reclaim the domain name corresponding exactly to the ROCCA mark”. It asserts that the timing of the Complaint does not legitimize the Respondent’s passive and speculative holding of the disputed domain name in bad faith.

The Complainant refers to negotiations through a broker for the purchase of the disputed domain name, and contends that the Respondent requested an “extortionate mid-six-figure price”, which demonstrates that it could not be acting in good faith. The Complainant exhibits an email received from the Registrar’s domain broker service dated August 19, 2024, stating: “We finally did receive a response back from the owner saying they are not interested in selling the domain name. They say they have received offers as high as $100k USD for the domain they have not accepted. They say they are not interested and would need an offer in the mid six figures to consider selling the domain name ($500k+)”.

The Complainant contends that the passive holding of a domain name does not prevent a finding of bad faith. It asserts that it is clear in this case that the disputed domain name is being treated as a speculative asset, with the purpose of extracting a price far exceeding any out-of-pocket costs or reasonable valuation, and explicable only by the domain name corresponding to a well-established trademark.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent states that he has at all material times been the underlying holder of the disputed domain name. He confirms that the disputed domain name was acquired in 2001, and submits that the company Finco SRL was used as an administrative vehicle for registration, to avoid publicizing personal details in the days before the use of privacy or proxy services was widespread. He adds that the Rocca family is a well-known Italian family, the members of which are involved in various capacities in the ownership and management of a large multinational corporation.

The Respondent submits that his failure to update the registration details for the disputed domain name following the dissolution of Finco SRL in 2012 was a clerical oversight, and was not intended to conceal the ownership of the disputed domain name. He states that, as per the Complainant's evidence of the "Andrea Rocca" webpage in 2009, his name and email address were evident from the website attached to the disputed domain name until its transfer to the Registrar in 2010. He adds that the Complainant's WhoIs evidence dated March 11, 2009 also provided his name and email address as the administrative contact for Finco SRL. He further points out the Complainant successfully made contact with him via the Registrar's domain broker service.

The Respondent submits that the disputed domain name corresponds with his own, personal, name and that it has actively and continuously been used for the purpose of personal and family email use since acquisition.

The Respondent does not dispute that the disputed domain name is identical to the Complainant's ROCCA trademark. He contends, however, that the Complainant does not enjoy a monopoly over that term, and that he has never used the disputed domain name in connection with the Complainant's field of activity. He adds that, in any event, the Complainant trades principally as "Rocca 1794", pointing to the Respondent's figurative trademark, its website at "www.rocca1794.com", and to numerous social media accounts under the name "Rocca 1794". The Respondent exhibits images of the Complainant's store fronts using "Rocca 1794" signage, and submits that this usage is also reflected by the Complainant's own evidence.

The Respondent states that he has rights or legitimate interests in the disputed domain name by virtue of being genuinely known by that name, and by making noncommercial use of the disputed domain name without any intent for commercial gain, to mislead consumers, or to target the Complainant's trademark.

The Respondent exhibits evidence of his email accounts linked to the disputed domain name, together with the accounts of several other family members. These include a large volume of emails, which appear to pertain to family, social and business matters, going back to at least 2012 in the case of the Respondent. The Respondent also exhibits certain other archived emails from that account, going back to 2002. He states that his primary email account at the disputed domain name includes over 100,000 emails, and that of one other named family member at least 12,500.

The Respondent disputes that the disputed domain name was registered or has been used in bad faith. He states that the circumstances described in paragraph 4(b) of the Policy have no application in this case, and that the disputed domain name has never been used to advertise jewellery or watches, impersonate the Complainant, divert consumers, or for the purpose of pay-per-click links targeting the Complainant.

The Respondent denies that the disputed domain name has been passively held, as evidenced by its use by the Respondent and other family members for email purposes.

The Respondent denies having registered or used the disputed domain name with intent to sell it to the Complainant, and states that he has never offered to sell it to the Complainant, whether for an exorbitant or any other amount. He states that any offers received for the disputed domain name have consistently been rejected, precisely because he required the disputed domain name for actual use, and without any intent to profit from it. The Respondent exhibits evidence of unsolicited email approaches to purchase the disputed domain name received in 2011, 2015, 2018, 2019, and 2020, together with a response to the last such offer to the effect that the Respondent was not interested in selling the disputed domain name.

Concerning the email correspondence with the Registrar's broker service in August 2024, the Respondent states that he was not aware that the offering party was the Complainant, never indicated any willingness to sell, did not quote the price of USD 500,000 mentioned by the Complainant, and simply instructed the broker to close down the enquiry. The Respondent exhibits an email from the broker referring to an offer to purchase of USD 35,000, a further email chasing the Respondent's reply, and an email from the Respondent mentioning no figure, and simply stating that the negotiation should be closed.

The Respondent speculates that the sum of USD 500,000 must therefore have been an imaginary figure invented by the broker in order to end the negotiation.

The Respondent submits that any transfer of the disputed domain name to the Complainant would force him and his family members to change the email addresses, through which they have been conducting all manner of daily, personal, financial, medical, and professional communications for 25 years. He also notes that the relevant email addresses are registered in connection with dozens of critical online accounts, including with banks, airlines, and other businesses.

The Respondent contends that the present proceeding should be viewed as an attempt by the Complainant at Reverse Domain Name Hijacking. He states that the Complainant knew, or should have known, that this was not a clear cybersquatting case, and that the Complainant's own evidence demonstrates that it was aware of his name and contact details. He states that the disputed domain name has never been used in a manner competitive with the Complainant, and that the broker contact concerning a possible purchase was solicited by the Complainant itself.

The Respondent observes that the Complainant has consistently traded as "Rocca 1794" and has elected to use that name, and not simply ROCCA, in connection with all of its promotional and social media activities. He contends that, on the Complainant's own admission, it is attempting to obtain the disputed domain name at this time in view of a change in its branding strategy.

The Respondent asserts that the present proceeding represents an attempt by the Complainant to acquire a now more commercially attractive domain name rather than any genuine claim of infringement. He contends that the Complainant is seeking to use the UDRP as a substitute for a failed purchase attempt, and without any basis to demonstrate a lack of rights or legitimate interests, or the bad-faith registration or use of the disputed domain name.

The Respondent adds that the Complainant could have initiated the present proceedings at any time over the past several years. He speculates that the Complainant filed the Complaint in the hope that the Respondent might overlook the proceeding. He states that the detrimental consequences of the Respondent losing the digital identity which he has used over the past 25 years would be unfathomable.

C. Complainant's Supplemental Filing

The Complainant states that, at the time of filing the Complaint, it could not have been aware of the alleged evidence of longstanding personal use of the disputed domain name for email purposes by an individual named "Rocca", or of documents intended to demonstrate wider family use of the disputed domain name.

The Complainant contends that, these matters notwithstanding, it filed the Complaint in good faith and on the basis of the objective information reasonably available to it at that time. It points out that, while Finco SRL continued to be shown as the registrant of the disputed domain name, that company had in fact been dissolved and removed from the Italian companies register, and that the available record did not disclose any personal owner of the disputed domain name, or any active use of it. It contends that the earlier inclusion of the name Andrea Rocca in connection with Finco SRL should be viewed purely in a corporate context.

The Complainant submits that the Respondent has not provided a satisfactory explanation why the registration details for the disputed domain name continued to show a corporate entity that had ceased to exist. It states that the obligation to maintain accurate and up-to-date registration information is well established under applicable ICANN policies, and that the Respondent's conduct resulted in a prolonged divergence between the public record and the ownership position now asserted.

With regard to the broker-led communications in 2024, the Complainant contends that the evidence submitted by the Respondent fails to demonstrate that the high valuation of the disputed domain name emanated exclusively from the broker, and that the Respondent has not provided the complete correspondence necessary to evaluate that issue.

The Complainant submits that, even if the Respondent may have demonstrated rights or legitimate interests in respect of the disputed domain name, such a conclusion would not establish that the Complaint was filed in bad faith. The Complainant repeats that the Respondent's evidence was previously both private and inconsistent with the registration record, and submits that the subsequent production of that evidence does not transform a reasonable complaint into an abusive one.

D. Respondent's Supplemental Filing

The Respondent submits that the Complainant cannot claim to have filed the Complaint in good faith when it made no attempt, even quickly, to investigate the true position. He states that, while both the WhoIs information and Archive.org records referred to by the Complainant contained a contact email address, the Complainant did not attempt to send an email to that address, which would have led to the discovery that that address was in fact active. He submits that, instead, the Complainant chose to initiate a purchase attempt via a domain name broker, followed by its filing of the present proceeding upon the failure of that attempt.

The Respondent states that, even if the registration information for the disputed domain name had been updated, any WhoIs search would still have resulted in reference to a privacy or proxy service as opposed to the Respondent's personal details. The Respondent adds that the Registrar's parking page included a facility to "Contact Domain Owner", which the Complainant did not attempt to utilize.

The Respondent contends that the Complainant's failure to exhaust elementary pre-litigation communication channels is revealing, and speculates once again that the Complainant may have hoped that the Respondent would simply fail to respond to the Complaint.

The Respondent submits that, contrary to the Complainant's allegations, he has indeed provided an explanation for the failure to update the disputed domain name registration details, namely, that this was an administrative error.

Concerning the 2024 negotiations, the Respondent contends that the Complainant is effectively asking for proof of an event that never occurred, i.e., that the Respondent requested a six-figure sum for the purchase of the disputed domain name. The Respondent states that the correspondence exhibited in this regard is complete, and makes clear his unequivocal intention to close the negotiation.

7. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(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.

A. Identical or Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights in the mark ROCCA.

The disputed domain name is identical to that trademark, save for the presence of the Top-Level Domain ".com", which may typically be disregarded for the purposes of comparison.

The Panel therefore finds that the first element under the Policy is established.

B. Rights or Legitimate Interests

The Respondent has demonstrated to the satisfaction of the Panel that the disputed domain name is used by the Respondent, and other members of the Respondent's family named Rocca, for the purpose of active email accounts. There is no basis to believe that those mail accounts represent a sham or pretext for some improper purpose, or merely a "technical artifice" as the Complainant claims.

The evidence demonstrates genuine and longstanding use of the disputed domain name as an email identifier corresponding to the family name Rocca, rather than a token or recently-created use designed to support the present proceeding.

Specifically, as contemplated by paragraph 4(c)(iii) of the Policy, the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel finds, furthermore, that the Respondent has commonly been known by a name corresponding to the disputed domain name (Policy, paragraph 4(c)(ii)). While Finco SRL was the owner of the disputed domain name prior to 2012, the assessment for the purposes of the second element falls to be determined as at the date of the Complaint.[1]

The Panel therefore finds that the Complainant has failed to establish the second element under the Policy.

C. Registered and Used in Bad Faith

While the Panel's findings in respect of the second element, above, are sufficient to dispose of the proceeding, the Panel also observes that it finds the disputed domain name neither to have been registered or to have been used in bad faith. On the evidence, the Respondent both registered and has used the disputed domain name for the purpose of personal mail accounts operated by himself and other members of a family genuinely named "Rocca". There is no evidence upon which to conclude that this activity was in some manner a sham or pretext designed to disguise the Respondent's targeting of the Complainant's trademark, or that the Respondent registered or has used the disputed domain name in an attempt to take unfair advantage of the Complainant's trademark rights.

Concerning the negotiations to purchase the disputed domain name in 2024, which were initiated by the Complainant and not the Respondent, the Panel accepts on balance the evidence of the Respondent that he did not canvass a figure of at least USD 500,000 for the sale of the disputed domain name, and that this was more likely a figure volunteered by the broker. The Respondent has produced evidence that he instructed the broker to close the negotiation without himself mentioning any figure, which would be consistent with the evidence of his previous rejection of numerous third-party approaches to buy the disputed domain name, and with his evidence of the significant detriment to himself and to family members that would result from the loss of the disputed domain name and connected email accounts.

The Panel further observes that, even if it had found the broker's email dated August 19, 2024, to evidence the Respondent's use of the disputed domain name in bad faith (which it does not), this would still be insufficient to establish the third element under the Policy, which includes the conjunctive requirement that the Respondent must be shown both to have registered and to have used the disputed domain name in bad faith. However, so far as the registration of the disputed domain name is concerned, there is no

[1] See e.g., WIPO Overview of WIPO Panel Views on Select UDRP Questions ("WIPO Overview 3.1"), section 2.11.

evidence from which the Panel could infer that, when the disputed domain name was acquired in 2001, the Respondent had the Complainant's or its predecessor's trademark rights specifically in mind. This factor would of itself be determinative of the failure of the Complaint.

The Panel therefore finds that the Complainant has failed to establish the third element under the Policy.

8. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking ("RDNH") or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute RDNH (WIPO Overview 3.1, section 4.16).

The Panel is divided on the question of whether the Complaint was brought in bad faith.

The Majority Panelists (Panelists Bedarida and Fano) do not consider that the Complaint was brought in bad faith.

The Majority Panelists note that the disputed domain name is identical to the Complainant's renowned ROCCA trademark, and was therefore liable to cause confusion to Internet users.

The Majority Panelists find it significant that the Respondent failed to update the registration details for the disputed domain name following the dissolution of the original registrant, Finco SRL, in breach of, e.g., the applicable ICANN regulations.[2] While the Respondent may be correct that even after an update a WhoIs search would have revealed only privacy or proxy information, the fact remains that the Registrar was unable to provide accurate registration information to the Center in connection with the Complaint.

The Majority Panelists do not believe it was incumbent upon the Complainant to attempt to contact the Respondent via the "[…]@rocca.com" email address, since the evidence of that email address in the Complainant's possession dated back to 2009 or 2010. The Complainant was, therefore, not unreasonable in not trying to use it.

The Majority Panelists observe that, so far as the Complainant was aware, the disputed domain name was being passively held, and also that the Complainant would have faced objective difficulties in determining whether or not the disputed domain name had been used for the purposes of email.

The Majority Panelists also take account for the fact that the Complainant has been advised by the broker of a six-figure price to purchase the disputed domain name, which may reasonably have influenced the Complainant in filing the Complaint, irrespective of the question of whether the Respondent had in fact approved that offer.

The Majority Panelists are not of the view that the Complainant brought the Complaint in bad faith following the failure of its attempt to purchase the disputed domain name on commercial terms.

In all the above circumstances, the Majority Panelists accept the submissions advanced by the Complainant in its supplemental submission, namely, that it commenced the proceeding in good faith, based on the information reasonably available to it at the date of the Complaint.

The Minority Panelist (Panelist Maier) is, however, of the view that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.

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[2] ICANN 2013 Registrar Accreditation Agreement, paragraph 3.7.7.1.

First, the Minority Panelist is unable to discern any basis upon which the Complainant may reasonably have believed that the disputed domain name was registered in order to target its ROCCA trademark. While the disputed domain name is identical to that trademark, the Complainant concedes that the word "rocca" is an Italian dictionary word (meaning "fortress" or "stronghold" in English), and that it is a common Italian surname. Furthermore, basic searches against the term ROCCA via Google and the WIPO Global Brand Database reveal numerous uses of the name "Rocca" in business by entities other than the Complainant, as well as numerous other owners of "ROCCA" trademarks.[3]

While the Complainant provides some evidence of the profile and reputation of its trademark as at the date of the Complaint, it provides no such evidence as of the date of registration of the disputed domain name in October 2001, and no reason therefore to infer that the Respondent was likely to have had the Complainant's trademark in mind when he registered the disputed domain name.

There is, furthermore, no evidence of the Respondent having engaged in any activity under the disputed domain name similar to, or competitive with, the Complainant, of it having impersonated the Complainant or having taken any steps (outside of the registration itself) that might confuse Internet users into believing that the disputed domain name was owned or operated by, or otherwise legitimately affiliated with, the Complainant.

In the view of the Minority Panelist, these circumstances provide no support for a claim that the Respondent is likely to have registered the disputed domain name in order to target the Complainant's trademark specifically.

Moreover, even if (which the Panel does not accept) the broker's pricing of the disputed domain name at a minimum of USD 500,000 evidenced the use of the disputed domain name in bad faith, that would have no bearing upon the circumstances of the registration of the disputed domain name some 23 years previously. The Complainant is expertly represented in the proceeding, and must therefore be taken to have known of the conjunctive requirement of demonstrating both registration and use of the disputed domain name in bad faith, in the absence of which a complaint cannot succeed.

Secondly, the Minority Panelist does not accept that it was impractical for the Complainant to have attempted to contact the Respondent in connection with its apparent grievance concerning the registration and use of the disputed domain name. While it is correct that the Respondent, wrongly, failed to update the relevant registration information, the Complainant was in possession of a WhoIs report dated March 11, 2009 expressly naming Andrea Rocca as the administrative contact for Finco SRL, and providing his email address. The Complainant was also in possession of evidence from Archive.org that, until 2010, the disputed domain name resolved to a website also naming Andrea Rocca and providing his email address.

Given that the Complainant was prepared to approach the Respondent, albeit indirectly, with an offer to purchase the disputed domain name, the Minority Panelist considers it unreasonable that it made no attempt to contact the Respondent, either using the email address in its possession or via the Registrar, to put forward its allegation that the Respondent had registered the disputed domain name abusively and to demand its transfer to the Complainant. While any such approach was likely to have resulted in the Complainant learning that there was no reasonable basis for its claim, the Complainant elected instead to move directly to issuing a Complaint under the UDRP, thereby forcing the Respondent either to incur the (irrecoverable) costs of defending the claim, or to risk losing the disputed domain name which he and his family had legitimately used for the purposes of email accounts for 25 years.

The Minority Panelist also notes that one of the key criteria for the assessment of a passive holding of a domain name (which the Complainant claimed the current registration to be) is the failure of a respondent

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[3] As observed in WIPO Overview 3.1, section 4.8, a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision.

to submit a response or to provide any evidence of actual or contemplated good-faith use of the disputed domain name. The Respondent in this proceeding was given no opportunity to provide any such response in advance of the Complaint being filed, and provided a full and conclusive Response upon his first opportunity to do so.

Thirdly, the Minority Panelist takes a different view from the Majority Panelists concerning the significance of the Complainant's failed attempt to purchase the disputed domain name from the Respondent. While the disputed domain name was acquired by the Respondent in 2001, and the ROCCA trademark and attendant rights acquired by the Complainant in 2008, at no time during the following 18 years does the Complainant appear to have asserted that the disputed domain name had been registered abusively and that it was entitled to a transfer of it under the terms of the UDRP. Moreover, the Complainant expressly admits that its present interest in acquiring the disputed domain name derives from an internal rebranding exercise, such that the disputed domain name, as opposed to the "Rocca 1794" name under which it has previously traded, has become commercially and strategically valuable to it. The Complainant having then tried and failed to acquire the disputed domain name commercially, the Minority Panelist simply does not accept that the Complainant was motivated in filing the Complaint by a genuine belief that the disputed domain name had been registered and used in bad faith, as opposed to making a speculative attempt to obtain the disputed domain name by an alternative route.

In all the circumstances set out above, the Minority Panelist is not of the view that the Complainant held a genuine belief that the disputed domain name had been registered and used in bad faith, or that there were any reasonable grounds upon which the Complainant (with the benefit of expert advice) could have reached that conclusion.

That assessment notwithstanding, the view of the Majority Panelists nevertheless prevails, and the Panel does not therefore find that the Complaint was brought in bad faith or constitutes an abuse of the administrative process.

9.Decision

For the foregoing reasons, the Complaint is denied.

/Steven A. Maier/
Steven A. Maier
Presiding Panelist

/Fabrizio Bedarida/
Fabrizio Bedarida
Panelist

/Edoardo Fano/
Edoardo Fano
Panelist
Date: September 2, 2026