ADMINISTRATIVE PANEL DECISION

Sack Consulting Inc. v. Max Renout
Case No. D2026-3212

1. The Parties

The Complainant is Sack Consulting Inc., United States of America ("United States"), represented by Nelson Mullins Riley and Scarborough, LLP, United States.

The Respondent is Max Renout, Estonia.

2. The Domain Name and Registrar

The disputed domain name <resilia-oregano.com> (the "Domain Name") 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 July 21, 2026. On July 22, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 22, 2026, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 July 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 July 27, 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 August 5, 2026. In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 27, 2026.

The Center appointed Ian Lowe as the sole panelist in this matter on September 7, 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 an online health and nutritional supplements company based in California, United States. It has marketed, advertised and sold its oil of oregano supplement under the RESILIA mark since at least September 1, 2024. It is the proprietor of registered trademarks for RESILIA, namely United States trademark number 8398331 registered on August 18, 2026 and United Kingdom trademark number UK00004398276 registered on August 28, 2026.

The Complainant registered the domain name <resilia.shop> on August 31, 2024 and launched a website at the domain name on the same day, promoting and offering for sale its RESILIA oregano supplements. Since the brand's launch in 2024, the Complainant has marketed and advertised the supplements through viral marketing on social media platforms such as Tik Tok, Instagram, YouTube and Facebook. Its Facebook account has around 11,700 followers, its Instagram account around 8,500, its Tik Tok account around 2,600 and its YouTube account around 6,700 followers. Over the 12 month period June 2025 to May 2026, the Complainant's marketing spend promoting its RESILIA products amounted to over USD 58 million. Since launching its RESILIA brand of supplements, the Complainant has averaged around 73,500 units sold per month, averaging USD 4.5 million in sales revenue per month, with monthly sales revenue over the six months to May 2026 averaging over USD 13.3 million.

The Domain Name was registered on June 14, 2026. It does not currently resolve to an active website, but the Complainant has adduced evidence that at the time of filing the Complaint, it resolved to a website featuring the RESILIA mark in the header, promoting the benefits of the Complainant's RESILIA oregano supplement, and purporting to offer it for sale, including an offer of "50% OFF NOW".

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its RESILIA trademark (the "Mark"), that the Respondent has no rights or legitimate interests in respect of the Domain Name and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Notably, the Complainant contends that as a result of the goodwill and reputation it has attracted through its extensive marketing and sales of its RESILIA products since at least as early as September 1, 2024, it has acquired sufficient unregistered trademark rights in the Mark for the purposes of a complaint under the Policy.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

(i) the 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 Domain Name; and

(iii) the Domain Name has been 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 Domain Name. WIPO Overview of WIPO Panel Views on Select UDRP Questions ("WIPO Overview 3.1"), section 1.7.

Although the UDRP makes no specific reference to the date on which the holder of a trademark acquired its rights, such rights must be in existence at the time the complaint is filed. WIPO Overview 3.1, section 1.1.3. In this case, the Mark was registered after the Complaint was filed. The Complainant also claims that it has unregistered trademark rights in the Mark prior to the filing of the Complaint.

The Panel finds that the Complainant has demonstrated unregistered trademark rights in the Mark through extensive use in commerce since at least September 2024. The evidence adduced by the Complainant as to its very substantial marketing and sales over that period demonstrates that the Mark has become distinctive of the Complainant's oregano supplements and is recognized by the relevant public as indicating the Complainant.

Common law trademark rights can be established under the UDRP by showing that a mark has acquired secondary meaning or has become a distinctive identifier associated with the complainant or its goods and services. See section 1.3 of the WIPO Overview 3.1. The Panel finds that the Complainant has established unregistered rights in the Mark.

Ignoring the generic Top-Level Domain ".com", the Domain Name comprises the entirety of the Mark with the addition of a hyphen and the word "oregano", a reference to the nature of the product sold by the Complainant under the Mark. The Panel finds that the addition of the word "oregano" does not prevent a finding of confusing similarity between the Domain Name and the Mark. WIPO Overview 3.1, section 1.8.

Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights, and 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. Accordingly, 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 Complainant has made out a prima facie case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent has used the Domain Name not in connection with a bona fide offering of goods or services, but for a website prominently featuring the Mark and purporting to offer the Complainant's product for sale without any indication that it has no relationship with the Complainant. However, it is not clear from the case record if the products offered for sale by the Respondent are genuine products.

In the Panel's view, this case highlights a tension between two tests: first, the *Oki Data* test, which indicates criteria against which the legitimacy may be measured of a domain name incorporating the complainant's mark which is used to sell the genuine products of the complainant; and, second, the impersonation test, which assesses whether the use of the complainant's mark in the domain name amounts to an impersonation of the complainant.

The *Oki Data*[1] test as set out in section 2.8 of WIPO Overview 3.1 outlines the following cumulative requirements for a finding that a respondent may have legitimate interests in such a domain name:

(i) the respondent must actually be offering the goods at issue;
(ii) the respondent must use the site only to sell only the trademarked goods or services;
(iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
(iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

In this case, (i) the Respondent purports to offer the RESILIA product; (ii) the Respondent does not appear to be selling goods other than those of the Complainant; (iii) according to the Complainant's evidence, the Respondent does not adequately disclose that it has no official relationship with the Complainant. There is no visible disclaimer stating that the website is not endorsed or sponsored by the Complainant or to explain the non-existing relationship with the trademark holder; (iv) there is no suggestion that the Respondent has attempted to "corner the market" in domain names that reflect the Mark.

It follows that the Domain Name fails to pass the *Oki Data* test in the absence in particular of a clear, express disclaimer on the Respondent's website as to the lack of a relationship with the Complainant. In any event, the Panel takes account of the tension between the *Oki Data* test and the "impersonation" test, which questions whether a domain name that consists of a trademark plus an additional term can constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. WIPO Overview 3.1, section 2.5.1. In this case, the Panel considers that there is a risk that Internet users will assume that the Domain Name is operated by or sanctioned by the Complainant in relation to the provision of RESILIA products.

Accordingly, the Panel finds on balance that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

There is no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name for a website selling RESILIA products.

Furthermore, there can be no doubt that the Respondent registered the Domain Name with the intention that Internet users would be attracted to its website because of the inclusion in the Domain Name of the Mark. The Respondent clearly sees the inclusion of the Mark as of substantial assistance in promoting its business. However, as indicated above, there is a real risk that because of the composition of the Domain Name, Internet users would be misled into believing that the website at the Domain Name was operated or authorised by the Complainant. This indicates bad faith use of the Domain Name.

[1] *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith. 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 Domain Name <resilia-oregano.com> be transferred to the Complainant.

/Ian Lowe/
Ian Lowe
Sole Panelist
Date: September 21, 2026