

ADMINISTRATIVE PANEL DECISION

COSRX Inc. v. 李晓飞 (Xiao Fei Li)

Case No. DCC2024-0016

1. The Parties

The Complainant is COSRX Inc., Republic of Korea, represented by KAI IP Law LLC, Republic of Korea.

The Respondent is 李晓飞 (Xiao Fei Li), China.

2. The Domain Name and Registrar

The disputed domain name <cosrx.cc> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 11, 2024. On June 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 2024, 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 (Anonymous, Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 13, 2024, 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 in English on June 17, 2024.

On June 13, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On June 17, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on June 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 10, 2024.

The Center appointed Linda Chang as the sole panelist in this matter on July 17, 2024. 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 cosmetic company established in 2013 and headquartered in the Republic of Korea. The Complainant currently sells more than 150 types of cosmetic products through its websites as well as third party platforms including Amazon, Shopee, and TMALL in more than 80 countries globally.

The Complainant is the owner of the following, amongst others, COSRX trademark registrations:

- (i) China Trademark Registration No. 14966434, registered on September 14, 2015, in Class 3;
- (ii) Republic of Korea Trademark Registration No. 4500530950000, registered on January 5, 2015, in Classes 3 and 35; and
- (iii) International Trademark Registration No. 1334993, registered on January 12, 2017, in Class 3.

The Complainant has also registered and owned, amongst others, the domain names <cosrx.co.kr> and <cosrx.com> since 2006 and 2007, respectively.

The disputed domain name was registered on November 4, 2023, and resolves to an online shopping website purportedly providing COSRX-branded products. The "About Us" page includes an introduction of the Complainant.

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 the disputed domain name wholly incorporates the COSRX trademark, which is sufficient to establish confusing similarity for the purposes of the Policy.

The Complainant further contends that the Respondent is not related to the Complainant in any way, and has not been permitted to use or register the disputed domain name.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Issues

A. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is English. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for the reason that both the disputed domain name and its website are written in English. This indicates that the Respondent is able to communicate in English.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantial Issues

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 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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

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.

The disputed domain name is resolving to a purported COSRX online shop displaying the Complainant's COSRX trademark, and providing COSRX-branded products, without a prominent and accurate disclaimer regarding the lack of relationship between the Complainant and the Respondent. The Complainant also alleges that the Respondent is copying without authorization photos from the Complainant. The Respondent, however, did not respond to such allegations to explain why it chose to register and use the disputed domain name.

Under the overall circumstances of this case, the Panel finds on the balance of probabilities that the Respondent's intention was to impersonate the Complainant and divert traffic to its own website. The Panel determines that the Respondent's use of the disputed domain name does not amount to a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain name.

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.

The Panel holds that the Respondent must have been aware of the Complainant at the time of registering the disputed domain name but deliberately chose it considering the current use of the disputed domain name. By dominantly displaying the COSRX trademark and the Complainant's introduction on the website, and using the Complainant's official product photos, the Respondent has attempted to pass off as the Complainant's authorized online shop and cause confusion among Internet visitors. The Respondent has intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the COSRX trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Bad faith can be inferred from the Respondent's registration and use of the disputed domain name.

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 <cosrx.cc> be transferred to the Complainant.

/Linda Chang/

Linda Chang

Sole Panelist

Date: July 31, 2024