

ADMINISTRATIVE PANEL DECISION

Sebach - Servizio Bagni Chimici - S.p.A. v. Liu Fen

Case No. DCO2023-0054

1. The Parties

The Complainant is Sebach - Servizio Bagni Chimici - S.p.A., Italy, represented by Società Italiana Brevetti, Italy.

The Respondent is Liu Fen, China.

2. The Domain Name and Registrar

The disputed domain name <sebach.co> 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 27, 2023. On June 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 29, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 July 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 31, 2023.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on August 4, 2023. 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 was established in 1987 in Italy. It specializes in portable toilets for various needs, including construction sites, public areas, events, and emergencies. With 80 partners and 1,500 rental points, the Complainant moves 50,000 mobile toilets daily, ensuring clean facilities where needed. Since 2017, the Complainant is certified “The Great Place to Work® Certification”, focusing on trust-based culture. It was also recognized for sustainability in 2021, receiving the Sustainability Award.

The Complainant is the proprietor of a number of trademarks, in particular:

- Italian trademark SEBACH, no. 0001232425, registered on November 27, 2009 for goods and services in classes 1, 11, 37 and 44;
- European Union trademark SEBACH & device, no.3512859, registered on January 16, 2008 for goods and services in classes 1, 6, 11, 19, 37, 44.

In addition, the Complainant is also the owner of a number of domain names, such as <sebach.at>, <sebach.be>, <sebach.biz>, <sebach.com>, <sebach.info>, <sebach.net>, <sebach.org>, <sebach.pl>.

The disputed domain name was registered on November 24, 2022, and based on the available evidence, has resolved to a parked page hosted by the Registrar where it is advertised as possibly for sale.

5. Parties' Contentions

A. Complainant

The Complainant asserts that each of the elements enumerated in paragraph 4(a) of the Policy and the corresponding provisions in the Rules have been satisfied. In particular, the Complainant asserts that:

- (1) the disputed domain name is identical or confusingly similar to its SEBACH trademark in which the Complainant has rights. The disputed domain name <sebach.co> is composed of the exact reproduction of the SEBACH trademark, and the country code top-level domain (“ccTLD”) “.co”. The applicable ccTLD in a domain name is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark. When confronted with the disputed domain name <sebach.co>, Internet users and consumers will inevitably associate it with the Complainant’s identical and well-known trademark SEBACH, that is entirely incorporated in it;
- (2) the Respondent has no right or legitimate interests in respect of the disputed domain name. The Complainant has neither authorized, nor somehow given its consent to the Respondent to register and use the disputed domain name <sebach.co>. The disputed domain name <sebach.co> has been registered and is being used to exploit the reputation of the Complainant’s trademarks and company name in order to attract current and potential Complainant’s clients. Moreover, the disputed domain name resolves to a “dan.com” webpage in which it is sold at the unfair cost of USD 1.450. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain, as the disputed domain name points merely to inactive websites where it is sold at a high price. There is no evidence of any use of the disputed domain name as a *bona fide* offering of goods or services, nor of any demonstrable preparations for such an offering;
- (3) the disputed domain name was registered and is being used in bad faith. The disputed domain name is used for a Registrar’s parking page where it is sold for a price of USD 1.450, exploiting the reputation of the Complainant’s trademarks SEBACH. The Respondent was also respondent for similar UDRP cases. There is no connection between the owner of the disputed domain name and the relevant distinctive sign reproducing the company name SEBACH and the Complainant’s

SEBACH/SEBACH formative trademarks. The disputed domain name is not used in good faith for the offer of goods and services to the public, nor is it used for legitimate commercial or non-commercial use without the intention of misleading the Complainant's customers or infringing the registered SEBACH trademarks. The disputed domain name does not lead to any active site. The owner of the disputed domain name is used to register domains that correspond to third party's trademarks, also well-known ones. The Respondent could not have been unaware of the Complainant's prior trademarks and domain names when it registered and used the disputed domain name in view of the renown of these prior rights and the reproduction of its trademarks within the disputed domain name. The Respondent is depriving the Complainant of the possibility to register the disputed domain name in which it might have a legitimate interest. The Respondent is unfairly and intentionally taking advantage of, and exploiting without authorization, the reputation and distinctiveness of the Complainant's trademarks SEBACH to attract Internet users to the websites related to the disputed domain name creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites depriving the Complainant of the possibility to register the disputed domain name in which it might have a legitimate interest.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

Moreover, the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the Complainant has rights.

The Panel confirms that for the purposes of paragraph 4(a)(i) of the Policy the Complainant has satisfied the threshold requirement of having relevant trademark rights for SEBACH in jurisdictions throughout the world.

The disputed domain name consists of the Complainant's trademark SEBACH only. The ccTLD ".co" may be disregarded for purposes of comparison under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1.

For all of the above-mentioned reasons, the Panel concludes that the disputed domain name is identical to the Complainant's trademark and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

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

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

The Complainant has asserted sufficient allegations to make a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

The term “SEBACH” is not descriptive in any way, nor does it have any generic, dictionary meaning. There are no evidence in the case file that there are SEBACH trademarks likely to be held by the Respondent.

The case file also does not contain any evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization.

In the present case, the Complainant’s un rebutted evidence establishes that its SEBACH trademark was registered and is well-known prior to registration of the disputed domain name. The Complainant has submitted that the Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

Furthermore, the disputed domain name resolves towards a page indicating that the disputed domain name “is for sale”. There is no evidence of any use of the domain as a *bona fide* offering of goods or services, nor of any demonstrable preparations for such an offering.

It is evident that the use of the disputed domain name for a page that is built on and around the Complainant’s trademarks and company name does not establish rights or legitimate interests and cannot constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

The Respondent has not explained why it chose the disputed domain name. Normally, if the Respondent has any rights or legitimate interests, the Respondent would have reasonably been expected to assert them (*Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#)). Given what is stated below in relation to bad faith, the Respondent either knew or should have known that its actions would have taken unfair advantage of the Complainant’s trademarks, and the use which it has made of the disputed domain name cannot confer rights or legitimate interests.

There is thus no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain, nor any others which may confer rights or legitimate interests on the Respondent. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case.

C. Registered and Used in Bad Faith

Under the third UDRP element, the Complainant is required to prove that the disputed domain name was registered and is being used in bad faith.

The Complainant claims that the Respondent registered the disputed domain name in bad faith, and the Panel agrees.

As already stated, it cannot be denied that the word “SEBACH” carries distinction. Taking into account that the term “SEBACH” is not a dictionary term, but rather an original creation of the Complainant, it is not likely

that the Respondent's choice of words in the disputed domain name was random. Therefore, the Panel is convinced that the Respondent's awareness amounts to opportunistic bad faith registration. See *Skyscanner Limited v. Sharoyan Ramzik Samvelovich*, WIPO Case No. [D2021-2754](#).

It is therefore highly unlikely that the Respondent was unaware of the existence of the Complainant and its well-known reputation and SEBACH trademarks while it registered the disputed domain name. On the contrary, considering the reputation of the Complainant, the fact that the disputed domain name is identical to the Complainant's SEBACH trademark, it is most likely that the Respondent registered the disputed domain name having the Complainant's trademarks in mind.

Furthermore, the fact that the disputed domain name appears to be offered for sale is an indication of a use in bad faith. Indeed, while offering domain names for sale is not *per se* constitutive of bad faith, it is well-established that offering a domain name that include a prior trademark is a bad-faith use, all the more when the concerned trademark is famous.

Furthermore, the Panel takes due note that the Respondent was also respondent for similar UDRP cases, whereas it is well-known that a pattern of abusive registrations by the respondent testifies for the bad faith on the part of the respondent. See [WIPO Overview 3.0](#), section 3.1.1.

Therefore, the Complainant has demonstrated that the Respondent is using the disputed domain name reproducing identically the Complainant's SEBACH trademark. Accordingly, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website.

For the reasons set out above, 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 <sebach.co> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: August 18, 2023