

ADMINISTRATIVE PANEL DECISION

KROSS S.A. v. Cb Bicycle Distribution Limited

Case No. DIE2025-0002

1. The Parties

The Complainant is KROSS S.A., Poland, represented by Kancelaria Prawnicza Piotr Korolko, Poland.

The Registrant is Cb Bicycle Distribution Limited, Ireland.

2. The Domain Name and Registrar

The disputed domain name <kross.ie> is registered with IE Domain Registry Limited ("IEDR").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 30, 2025, via email. On May 1, 2025, the Center transmitted by email to IEDR a request for registrar verification in connection with the disputed domain name. On May 6, 2025, IEDR transmitted by email to the Center its verification response confirming that the Registrant is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .IE Dispute Resolution Policy (the "IEDR Policy"), the WIPO Dispute Resolution Rules of Procedure for .IE Domain Name Registrations (the "Rules"), and the WIPO Supplemental Rules for .IE Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2.1 and 4.1, the Center formally notified the Registrant of the Complaint, and the proceeding commenced on May 16, 2025. In accordance with the Rules, paragraph 5.1, the due date for Response was June 16, 2025. The Response was filed on June 10, 2025.

The Center appointed Adam Taylor as the sole panelist in this matter on June 20, 2025. 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, which is one of the largest bicycle manufacturers in Europe, has traded under the mark KROSS since around 2003.

The Complainant owns a number of registered trade marks for KROSS including International Registration No. 1,186,560, registered on August 23, 2013, in classes 9, 11, 12, 21, and 25, and designating Ireland amongst other jurisdictions.

The Registrant has resold the Complainant's products in Ireland since 2014.

The Registrant registered the disputed domain name on April 26, 2016.

When reviewed by the Panel¹ on July 3, 2025, the disputed domain name resolved to a website branded with the Complainant's KROSS logo plus "Ireland" in smaller font. The logo was located on the left of a header on a black background that included the following menu items in white font: "KROSS HOME", "BIKES", "ABOUT KROSS", "CONTACT" and "KROSS BIKES". A note at the top of the header stated: "ONLINE CHECKOUT IS CLOSED! Please contact [...]@carterbikes.com to place an order or make an enquiry." The page itself included headings such as "ENTER THE KROSS WORLD", "KROSS ACCESSORIES", and "BECOME A KROSS DEALER OR FIND OUT MORE" as well as a photo of the "KROSS RACING TEAM". The site listed KROSS bicycles and accessories with photos and prices.

The "ABOUT KROSS" page on the Registrant's website stated: "We are the official distributor of Kross bikes here in Ireland[...]".

There is no evidence in the record that the Registrant replied to the Complainant's cease-and-desist letter sent by email on February 21, 2024, or by post on April 10, 2024.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the IEDR Policy for cancellation of the disputed domain name.

B. Registrant

The Registrant contends that the Complainant has not satisfied any of the elements required under the IEDR Policy for a transfer of the disputed domain name.

Notably, the Registrant contends that:

- the addition of the country code Top-Level Domain ("ccTLD") ".ie" is sufficient to distinguish the disputed domain name from the Complainant's trade mark;
- the disputed domain name predates three of the Complainant's trade marks;
- in 2014, the Registrant entered into "lawful wholesale arrangements" with the Complainant, which included receipt of genuine Complainant products for resale as well as branded promotional materials and marketing support;
- the Registrant has a legitimate interest in the disputed domain name as it "was a longstanding authorized wholesaler of Kross bicycles";

¹ The Panel reviewed the website in the absence of any website screenshots from either party.

- the Registrant registered the disputed domain name in good faith in connection with a pre-existing commercial relationship;
- the Registrant is using the disputed domain name in good faith for a good faith offering namely to advertise the Complainant's genuine and lawfully-acquired products;
- the Registrant's website provides only information and content promoting the Complainant's products, lacking any checkout system, and customers must contact the Registrant by telephone or email to place orders for products which the Registrant purchases as a wholesaler and provides to the Irish market only;
- accordingly, there is "no financial link" between the disputed domain name and the Registrant;
- the informational nature, the absence of e-commerce functionality, and the explicit reference to Registrant's corporate name prevent any likelihood of confusion as to source or sponsorship; and
- while the Complainant issued cease-and-desist demands, the Complainant failed to engage with the Registrant regarding the Registrant's "prior wholesale authorization", or to offer any alternative commercial arrangement.

6. Discussion and Findings

A. Identical or Confusingly Similar to a protected identifier in which the Complainant has rights

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for misleading similarity involves a reasoned but relatively straightforward comparison between the Complainant's protected identifier and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)),² section 1.7.

Under paragraph 1.3.1 of the IEDR Policy, "protected identifiers" include "trade and service marks protected in the island of Ireland". The Complainant owns the above-mentioned International Registration, which has effect within Ireland. It therefore constitutes a protected identifier.

The Complainant has shown rights in respect of protected identifier for the purpose of the IEDR Policy.

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 IEDR Policy. [WIPO Overview 3.0](#), section 1.7.

Contrary to the Registrant's assertion, the ".ie" TLD is disregarded under the first element comparison. [WIPO Overview 3.0](#), section 1.11.

Nor does anything turn on the fact that some of the Complainant's registered trade marks postdate the disputed domain name. First, trade mark rights are assessed as at the date of the Complaint. [WIPO Overview 3.0](#), section 1.1.3. In any event, the Complainant's International Registration (see section 4) and unregistered rights both long predate the disputed domain name.

The Panel finds the first element of the IEDR Policy has been established.

B. Rights in Law or Legitimate Interests

Paragraph 3 of the IEDR Policy provides a list of circumstances in which a registrant may demonstrate rights or legitimate interests in the disputed domain name.

Although the overall burden of proof in IEDR Policy proceedings is on the complainant, panels have recognised that proving a registrant lacks rights or legitimate interests in a domain name may result in the

² Although [WIPO Overview 3.0](#) is directed to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), given the similarity between the UDRP and the IEDR Policy, it is appropriate to have regard to these principles except to the extent that the IEDR Policy diverges from the UDRP.

difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the registrant. As such, where a complainant makes out a prima facie case that the registrant lacks rights or legitimate interests, the burden of production on this element shifts to the registrant 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 registrant 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 Registrant lacks rights or legitimate interests in the disputed domain name. In the Panel’s view, the Registrant has not rebutted the Complainant’s prima facie showing and has not come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the IEDR Policy or otherwise.

As to paragraph 3.1.1 of the IEDR Policy, the Registrant has used the disputed domain name to resell the Complainant’s products.

The detail of the parties’ relationship is somewhat unclear.

The Complainant says that there was a “cooperation between the entities” from 2014, when the Registrant purchased its first KROSS product, until 2022, when the Complainant issued the last invoice to the Registrant.

For its part, the Registrant claims that it was an authorised wholesaler of the Complainant’s products from 2014, including receipt of marketing materials and support from the Complainant, but the Registrant does not specify an end date, nor provide any contract or other supporting documents.

The Registrant further maintains that is now using the disputed domain name for informational and promotional content only, and that there is no “financial link” between the Registrant and the disputed domain name, because the Registrant has removed the checkout page from its website and instead requires that customers contact it by telephone or email to purchase the products listed on the site. However, the Panel fails to see any material distinction between offering products for sale via an online checkout or inviting customers to contact the Registrant by phone/email to order products listed for sale (with prices) on the website. In either case, the Registrant is using the website to offer the Complainant’s products for sale.

The Panel infers from the above that the Registrant started as an authorized reseller in 2014, but at some point thereafter, the arrangement terminated, following which the Registrant continued to resell the Complainant’s products on an unauthorized basis.

To establish a bona fide offering of goods as a reseller a respondent must comply with certain conditions (known as the “Oki Data requirements”). [WIPO Overview 3.0](#), section 2.8.

In this case, the Panel considers that the Registrant has failed to comply with the Oki Data requirement to accurately and prominently disclose the Registrant’s relationship with the trade mark holder, as explained in section 6C below.

Nor is there any evidence that paragraphs 3.1.2 or 3.1.3 of the IEDR Policy are relevant in the circumstances of this case.

The Panel finds the second element of the IEDR Policy has been established.

C. Registered or Used in Bad Faith

The Panel notes that, for the purposes of paragraph 1.1.3 of the IEDR Policy, paragraph 2 of the IEDR Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration or use of a domain name in bad faith.

In the present case, the Panel considers that the Registrant has intentionally attempted to attract Internet users to its website by creating confusion with the Complainant's mark in accordance with paragraph 2.1.4 of the IEDR Policy.

Not only does the disputed domain name reflect the Complainant's exact distinctive mark, but the Registrant has used the disputed domain name for a website that creates a likelihood of confusion with the Complainant, including by use of a close copy of the Complainant's header, comprising the Complainant's logo on the left (with the word "Ireland" added in small font) plus a horizontal list of menu items in the same white font as used on the Complainant's header, all on a black background. The Registrant's website also generally copies the look and feel of the Complainant's website.

The Panel also notes the lack of any prominent disclaimer. The Registrant invokes the use of its corporate name as sufficient to prevent confusion. In fact, there was no prominent use of the Registrant's corporate name on the homepage when the site was viewed by the Panel. The Panel does not consider that the mere appearance of the Registrant's email address in the "checkout closed" notice in the header (see section 4 above) – still less its use in the website footer – is likely to prevent confusion, given the website's prominent use of the Complainant's logo and branding.

Furthermore, the Registrant misleadingly describes itself on the "ABOUT KROSS" page as the Complainant's "official distributor" in Ireland, despite the Registrant accepting that it is no longer an authorised distributor of the Complainant.

The Panel does not consider that the likelihood of confusion is diminished by that fact that some users arriving at the Registrant's site might realise at some point that the site is not officially connected with the Complainant. Paragraph 2.1.4 of the IEDR Policy is concerned with the intentional attracting of Internet users. Here, the disputed domain name, which is identical to the Complainant's mark, creates a risk of implied affiliation with the Complainant, and the Registrant profits from at least some of the traffic intended for the Complainant.

The Panel finds the third element of the IEDR Policy has been established.

7. Decision

For all the foregoing reasons, in accordance with paragraphs 5 of the IEDR Policy and 14 of the Rules, the Panel orders that the disputed domain name <kross.ie> be cancelled.

/Adam Taylor/

Adam Taylor

Sole Panelist

Dated: July 4, 2025