

## **ADMINISTRATIVE PANEL DECISION**

**PUMA SE v. Dreher Barbara, Faerber Matthias, and Client Care,  
Web Commerce Communications Limited  
Case No. D2022-0112**

### **1. The Parties**

The Complainant is PUMA SE, Germany, represented by Göhmann Rechtsanwälte, Germany.

The Respondents are Dreher Barbara, Germany; Faerber Matthias, Germany; and Client Care, Web Commerce Communications Limited, Malaysia.

### **2. The Domain Names and Registrars**

The disputed domain name <pumacolombia.co> is registered with NameCheap, Inc. (the “Registrar”).

The disputed domain name <pumaecolombia.com> is registered with NETIM SARL (the “Registrar”).

The disputed domain name <pumalcolombia.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 13, 2022. On January 13, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On January 13 and 14, 2022, the Registrars transmitted by email to the Center its verification response disclosing registrants and contact information for the disputed domain names which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on January 14, 2022, providing the registrants and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on January 19, 2022.

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 of the Complaint, and the proceedings commenced on January 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 16, 2022.

The Center appointed Kaya Köklü as the sole panelist in this matter on February 22, 2022. 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 long-standing Germany-based company, which is particularly active in the field of promoting and selling shoes and sportswear around the world.

The Complainant is the owner of the widely known trademark PUMA, which is protected in a large number of jurisdictions. For instance, the Complainant is the owner of the International Trademark Registration No. 175859 for PUMA, registered on March 26, 1954, covering protection for footwear as protected in class 25 (Annex 4 to the Complaint).

The disputed domain name <pumacolombia.co> was registered on November 20, 2021.

The disputed domain name <pumaecolombia.com> was registered on December 9, 2021.

The disputed domain name <pumalcolombia.com> was registered on December 15, 2021.

The Respondents are composed of two individuals reportedly located in Germany, and an entity reportedly located in Malaysia. The Respondent from Malaysia was already subject to a previous UDRP proceeding *vis-a-vis* the Complainant concerning a highly similar domain name, which was decided in favour of the Complainant (*Puma SE v. Web Commerce Communications Limited*, WIPO Case No. [D2021-3441](#)).

The screenshots as provided in the Complaint, show that the disputed domain names resolve to websites that all have the same overall design with partly identical structure and content. On these websites, the Complainant's word and figurative PUMA trademark is prominently used and, thus, creates the (false) impression that they all are operated by the Complainant itself.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant requests the transfer of the disputed domain names.

The Complainant is of the opinion that the disputed domain names are confusingly similar to its PUMA trademark.

It further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

In addition, the Complainant is convinced that the Respondent has registered and is using the disputed domain names in bad faith.

##### **B. Respondents**

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

## 6. Discussion and Findings

### 6.1. Procedural Issues - Consolidation

As neither the Policy nor the Rules provides provisions for the consolidation of claims against multiple respondents into a single administrative proceeding, UDRP panels generally apply the principles for consolidation as set out at section 4.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Section 4.11.2 of the [WIPO Overview 3.0](#) states the following: "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario." *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#).

In this regard, previous UDRP panels particularly considered the following aspects in determining whether a consolidation is appropriate: similarities in or relevant aspects of (i) the registrants' contact information, (ii) the content or layout of websites corresponding to the disputed domain names, (iii) the nature of the marks at issue (e.g., whether the registrants are targeting a specific sector), and (iv) the relevant language/scripts of the disputed domain names.

In light of the criteria set out above, the Panel has no doubt that all disputed domain names are under joint control. This is particularly evidenced by the fact that all disputed domain names are associated to websites with a highly similar and partly even identical layout and content.

Therefore, the Panel concludes that all three Respondents must act collaboratively and, hence, accepts that all disputed domain names are under common control. The Panel further is convinced that in the present case a consolidation of multiple Respondents is procedurally efficient, fair, and reasonable to all parties.

The Panel therefore, for the purpose of this decision, accepts the case to be dealt with in a consolidated Complaint and will refer, whenever appropriate, to "the Respondent" in the following.

### 6.2. Substantive Issues

According to paragraphs 14(a) and 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable and on the basis of the Complaint where no Response has been submitted.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain names are identical or confusingly similar to the trademarks or service marks in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complaint. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#).

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

### **A. Identical or Confusingly Similar**

To begin with, the Panel confirms that the Complainant has satisfied the threshold requirement of having relevant trademark rights. As evidenced in the Complaint, the Complainant is the owner of the widely known PUMA trademark, which has been first registered and used many decades ago.

The Panel finds that the disputed domain names are confusingly similar to the Complainant's PUMA trademark. All disputed domain names fully comprise the PUMA trademark in its entirety. As stated at section 1.8 of the [WIPO Overview 3.0](#), where a trademark is recognizable within a disputed domain name, the addition of other terms and signs would generally not prevent a finding of confusing similarity.

Here, the addition of the country indication "Colombia" in all disputed domain names as well as the addition of the letters "e" respectively "l" in two of the three disputed domain names, does, in view of the Panel, not serve to avoid a finding of confusing similarity between the disputed domain names and the Complainant's PUMA trademark.

In view of the above, the Panel is satisfied that the Complainant has met the requirements under paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of "proving a negative", in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain names to meet the requirements of paragraph 4(a)(ii) of the Policy. *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly no license or alike to use the Complainant's PUMA trademark in a confusingly similar way within the disputed domain names.

In the absence of a Response, the Respondent has failed to demonstrate any of the non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c), or provide any other evidence of rights or legitimate interests in the disputed domain names. On the contrary, the case record indicates that the disputed domain names may have been already used in connection with fraudulent, at least illegitimate activities by the Respondent, who obviously is trying to cause confusion with the Complainant and its shoes and sportswear among Internet users. Also, the Panel notes that the nature of the disputed domain names carries a risk of implied affiliation or association, as stated in section 2.5.1 of the [WIPO Overview 3.0](#).

Bearing all this in mind, the Panel does not see any basis for assessing a *bona fide* offering of goods or services by the Respondent.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Panel believes that the Respondent deliberately attempted to create a likelihood of confusion among Internet users for illegitimate purposes, particularly for the following reasons.

At the date of registration of the disputed domain names, the Panel has no doubt that the Respondent was well aware of the Complainant and its widely known PUMA trademark. It is obvious to the Panel that the Respondent has deliberately chosen the disputed domain names to target and mislead Internet users who particularly are searching for products of the Complainant. Consequently, the Panel is convinced that the Respondent has registered the disputed domain names in bad faith.

Additionally, the Panel finds that the Respondent is using the disputed domain names in bad faith. Prominently featuring an identical copy of the Complainant's word and figurative PUMA trademark on the websites linked to the disputed domain names, the overall design of those websites, and the nature of the disputed domain names all indicate that the Respondent intentionally tries to misrepresent itself as the Complainant and trademark owner to mislead Internet users for probably fraudulent, at least illegitimate purposes.

Taking these facts of the case into consideration, the Panel believes that this is a typical cybersquatting case, which the UDRP was designed to stop. The Panel therefore concludes that the disputed domain names were all registered and are being used in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, 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 names <pumacolombia.co>, <pumaecolombia.com>, and <pumalcolombia.com> be transferred to the Complainant.

*/Kaya Köklü/*

**Kaya Köklü**

Sole Panelist

Date: March 8, 2022