

ADMINISTRATIVE PANEL DECISION

Rosso & Azzurro Holding Ltd and Syna Clothing Limited v. Kalu Madari
Case No. D2024-0779

1. The Parties

The Complainant is Rosso & Azzurro Holding Ltd and Syna Clothing Limited, United Kingdom (“UK”), represented by A. A. Thornton & Co., UK.

The Respondent is Kalu Madari, United States of America.

2. The Domain Name and Registrar

The disputed domain name <synaworldstore.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 20, 2024. On February 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 22, 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 (Redacted for Privacy, Whois Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 28, 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 on February 28, 2024.

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 February 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 21, 2024.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on March 28, 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 Complainants are Rosso & Azzurro Holding Ltd. and its subsidiary company Syna Clothing Limited, founded in 2020 and 2023 respectively. The companies are UK fashion brand start-ups, herein mentioned as the Complainant.

The Complainant is the owner of trademark registrations, such as:

- UKTM Registration No. UK00003783251 (filing date: April 30, 2022) for the mark SYNA, registered on July 29, 2022, in class 25, in the name of Rosso & Azzurro Holding Ltd.;
- UKTM Registration No. UK00003911028 (filing date: May 12, 2023) for the mark SYNA, registered on September 8, 2023, in class 25; and
- UKTM Registration No. UK00003911050 for the “Syna logo” figurative mark (filing date: May 12, 2023), registered on September 8, 2023, in class 25, both marks in the name of Syna Clothing Limited.

The Complainant is the owner of <syna.store>, registered on May 27, 2022

The Respondent was identified as Kalu Madari, from the United States of America.

The disputed domain name was registered on October 17, 2023, and resolves to a website that claims to be a SYNA brand store created by fans and that displays the Complainant’s logo and trademark, and it is also offering for sale similar clothing articles.

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.

The Complainant argues that the disputed domain name <synaworldstore.com> is identical or confusingly similar to the trademark SYNA.

The disputed domain name resolves to a website that impersonates the Complainant and claims to be a SYNA brand fan-operated online store, offering for sale similar clothing articles. This website features the Complainant’s SYNA trademark and logo, without authorization.

There is no evidence that the Respondent has made demonstrable preparations to use the disputed domain name for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain name in connection with a bona fide offering of goods and services.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. That being the case, the Complainant finds that the disputed domain name is used to take unfair advantage of the Complainant’s rights for commercial gain, since Internet users and the Complainant’s customers would inevitably associate the content related to the disputed domain name with the Complainant’s prior trademarks and the disputed domain name is also offering counterfeit goods.

According to the Complainant, it has prior rights over the trademarks SYNA, and has not authorized the registration and use of the disputed domain name, nor the use of its trade name and trademarks by the Respondent.

The Complainant's intellectual property rights for SYNA trademarks predate the registration of the disputed domain name.

The Complainant also argues that the Respondent was aware of the Complainant's rights and has clearly registered the disputed domain name to target the Complainant's trademark, and that the registration of the disputed domain name was conducted in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

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 name is 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 name; and
- (iii) the disputed 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 disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the addition of the terms "world" and "store" does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 containing the trademark SYNA in its entirety with the terms “world” and “store” carries a risk of implied affiliation. Further, the content of the website to which the disputed domain name resolves prominently displays the Complainant’s trademarks and logo, as well as edited photographs belonging to the Complainant. Internet users are likely to assume that the website is a genuine source of the Complainant’s goods. The Respondent’s use of a disclaimer is not sufficiently prominent on the website and may easily go unnoticed by any Internet user.

Per the Complainant, the goods sold on the website to which the disputed domain name resolves appear to be counterfeit. Panels have held that the use of a domain name for illegal activity, here claimed as impersonation and offer of counterfeit goods for sale, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the Respondent was clearly aware of the SYNA trademarks as the Complainant’s trademark registrations as well as its domain name predating the registration date of the disputed domain name. The Panel finds that the Respondent’s purpose of registering the disputed domain name was to trade on the Complainant’s trademark by diverting Internet users seeking the Complainant’s products to its own website for financial gain. The Panel notes that the Respondent tries to impersonate the Complainant’s website by using images belonging to the Complainant as well as its logo, offering alleged counterfeit goods for sale under the SYNA trademark, as such, causing harm to the reputation of the Complainant.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity, here claimed as sale of counterfeit goods and impersonation, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <synaworldstore.com> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: April 11, 2024