

Decision for dispute CAC-UDRP-104940

Case number CAC-UDRP-104940

Time of filing 2022-10-27 14:32:17

Domain names scarossoenfr.com

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization Scarosso Germany GmbH

Complainant representative

Organization Barzanò & Zanardo Milano S.p.A.

Respondent

Name Xiuhua Xu

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of EUTM word trademark SCAROSSO (Reg. No. 012619193, registered since July 15, 2014), covering Nice classes 18, 21, 25 and 35.

FACTUAL BACKGROUND

The Complainant, Scarosso Germany GmbH, is the German company which produces shoes with SCAROSSO brand in Italy and sells its products in stores in Europe and online at <www.scarosso.com>.

The Complainant is the owner of EUTM word trademark SCAROSSO (Reg. No. 012619193, registered since July 15, 2014), covering Nice classes 18, 21, 25 and 35. The Complainant also owns the domain name <scarosso.com> registered and used for its official website since August 9, 2010.

The disputed domain name <scarossoenfr.com> has been registered on January 5, 2022. The disputed domain name resolves to the mirror website reproducing SCAROSSO official website and prima facie is used to deceive Internet Users with the scam offers for sale of SCAROSSO products at very discounted price.

The Respondent is Xiuhua Xu, Chinese resident from Nantong city.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. The Complainant, Scarosso Germany GmbH, is the German company which produces shoes with SCAROSSO brand in Italy and sells its products in stores in Europe and online at <www.scarosso.com>. The Complainant is the owner of EUTM word trademark SCAROSSO (Reg. No. 012619193, registered since July 15, 2014), covering Nice classes 18, 21, 25 and 35. The Complainant also owns the domain name <scarosso.com> registered and used for its official website since August 9, 2010.
2. The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademark in any manner, including in domain names. The Respondent's name does not resemble the disputed domain name in any manner. Respondent's use of the disputed domain name does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use (Policy Para. 4(c)).
3. The Panel agrees with the Complainant that the disputed domain name <scarossoenfr.com> is confusingly similar to the Complainant's trademark SCAROSSO. The adding of "en" and "fr" (the language codes for English and French) to the Complainant's word trademark does not change the fact that the disputed domain name and the registered trademark are confusingly similar as it does not change the overall impression of the designation as being connected to the Complainant's trademark and it does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and domain name associated. As set forth in section 1.7 of WIPO Overview 3.0, "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."
4. As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by

the Respondent, the Panel concludes that the Respondent, when it registered the disputed domain name, meant nothing else except the Complainant's trademark SCAROSSO. Therefore, the Respondent knew of should have known about the Complainant's rights, which evidences bad faith. Moreover, as the disputed domain name resolves to the mirror website reproducing SCAROSSO official website and prima facie is used to deceive Internet Users with the scam offers for sale of SCAROSSO products at very discounted price, one can simply conclude that Respondent's bad faith is evident. Therefore, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his websites (par. 4(b)(iv) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **scarossoenfr.com**: Transferred

PANELLISTS

Name	Darius Sauliūnas
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DATE OF PANEL DECISION **2022-12-03**

Publish the Decision
