

Decision for dispute CAC-UDRP-105665

Case number **CAC-UDRP-105665**

Time of filing **2023-07-26 08:58:29**

Domain names **ridgeusa.com**

Case administrator

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

Complainant

Organization **The Ridge Wallet LLC**

Complainant representative

Organization **Stobbs IP Ltd**

Respondent

Name **Huang Xuelu**

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 the following trademarks:

- United States of America trademark registration no. 4470705 for “THE RIDGE”, registered on 21 January 2014;
- United States of America trademark registration no. 5001780 for “THE RIDGE”, registered on 19 July 2016;
- United States of America trademark registration no. 5964856 for “RIDGE”, registered on 21 January 2020;
- Australia trademark registration no. 2299129 for “RIDGE WALLET”, registered on 8 September 2022; and
- China trademark registration no. 23937266 “THE RIDGE”, registered on 21 June 2019.

Amongst others, the Complainant owns the domain names <ridge.com>, <ridgewallet.eu>, <ridgewallet.co.uk>, and <ridgewallet.ca>. The Complainant has operated <ridge.com> as early as 28 April 2019.

The Respondent registered <ridgeusa.com> (the “disputed domain name”) on 7 December 2022. Currently, the disputed domain name resolves to a website selling counterfeit versions of the Complainant’s goods and/or services.

FACTUAL BACKGROUND

The Complainant is an innovative consumer goods company that sells several categories of products, including, but not limited to, compact wallets.

The RIDGE brand was launched by the Complainant in 2014, and the Complainant has built a significant reputation and goodwill in THE RIDGE and RIDGE trademarks in the USA and in other countries in relation to compact wallets and related consumer goods and services. The Complainant maintains a significant online presence through its website <ridge.com>, and other social media accounts on Facebook, Instagram, Pinterest, and LinkedIn.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the RIDGE mark on the basis that the disputed domain name consists of the entire RIDGE mark, along with the additional descriptive geographical suffix “USA” and the generic Top-Level Domain (“gTLD”) “.com” and are thus insufficient to avoid the finding that the disputed domain name is confusingly similar to its RIDGE mark.

The Complainant also argues that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant submits that the Respondent is not legitimately known by the name “Ridge” at any point of time. The Respondent has not acquired any rights in a trademark or trade name corresponding to the disputed domain name. In addition, the Respondent is not known or affiliated with the Complainant and the Complainant did not license or authorize the Respondent to use the RIDGE mark. The Complainant also argues that the disputed domain name resolves to active websites which advertise and/or offer for sale counterfeit and/or knockoff products which infringe upon the Complainant’s various intellectual property rights. Further, the Respondent’s website attempts to impersonate/pass off as an official or licensed website of the Complainant through its use and display of the Complainant’s RIDGE trademark.

The Complainant further asserts that the disputed domain name has been registered and is being used in bad faith as the Respondent should have known of the Complainant’s well-known RIDGE mark at the time of registration of the disputed domain name. Further, the sale of counterfeit and/or knockoff products on the Respondent’s website is strong evidence that the Respondent was well aware of the Complainant’s well-known mark at the time of registration. The Respondent’s website was intentionally designed to be confusingly similar to the Complainant’s website and heavily utilised the Complainant’s RIDGE mark. The Complainant also asserts that the Respondent has registered the disputed domain names in order to drive Internet traffic to the Respondent’s website in order to impersonate/pass off as the Complainant to sell counterfeit and knockoff products.

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

Preliminary - Language of proceedings

The language of the Registration Agreement for the disputed domain name is purportedly Chinese. However, no copy of the same has been tendered to the Panel by either party. The Complainants requested that the language of the proceeding be English for the following main reasons:

- The content of the Respondent's website is in English;
- The products offered on the Respondent's website are offered for sale in United States Dollars, which is the currency of the United States of America, an English-speaking country, evidencing that the Respondent understands the English language;
- The disputed domain name includes "USA", which relates to the United States of America, and is an English-speaking country; and
- requiring the Complaint to be translated into Chinese would result in the proceedings being unduly delayed and the Complainants having to incur substantial expenses for translation.

The Respondent did not comment on the language of the proceeding.

Section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") states the following:

"Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case. Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled Domain Names registered, used, or corresponding to a particular language, (viii) in cases involving multiple Domain Names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement."

Having considered the relevant factors and interests of the respective Parties, the Panel determines that it would be appropriate for English be the language of the proceeding. The Panel is persuaded that the Respondent would not be prejudiced as he appears to be familiar with and understands the English language. The contents of the Respondent's website reflect words in English and notably, non in the Chinese language. The disputed domain name also consists of Latin characters instead of Chinese characters. In the absence of any rebuttal argument or justification therefore by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint into Chinese.

Substantive

1. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the trademark registrations of the RIDGE and THE RIDGE marks.

Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See WIPO Overview 3.0, section 1.8. The disputed domain name comprises the Complainant's mark in addition to the descriptive geographical suffix "USA", denoting the United States of America, where the Complainant resides. In this particular case, Complainant's trademark is clearly recognizable within the disputed domain name, and the addition of the geographical term "USA" would not prevent a finding of confusing similarity under the first element.

In addition, the disputed domain name comprises the gTLD ".com". It is well established that the addition of a gTLD ".com" does not avoid confusing similarity between the Complainant's trademark and the disputed domain name (see WIPO Overview 3.0, section 1.11.1).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

2. Rights or Legitimate Interests

Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see WIPO Overview 3.0, section 2.1).

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it owns trademark registrations of the RIDGE and THE RIDGE marks long before the date that the disputed domain name was registered and that it is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. D2010-0138).

The Complainant also provided evidence that the Respondent is not commonly known by the disputed domain name (Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy 4(c) (ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c) (ii).")) (see WIPO Overview 3.0, section 2.3).

Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name, which would be sufficient to rebut the Complainant's *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

3. Registered and Used in Bad Faith

The complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant provided evidence that the disputed domain name resolves to a website bearing the RIDGE trademark that offers for sale what appears to be various counterfeit and/or knockoff versions of the Complainant's products. Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. Particularly in the case of counterfeits, this is true irrespective of any disclosure on the related website that such infringing goods are "replicas" or "reproductions" or indeed the use of such term in the domain name itself. (See WIPO Overview 3.0 section 2.13.1).

That being said, Panels are generally not prepared to accept merely conclusory or wholly unsupported allegations of illegal activity, including counterfeiting, even when the respondent is in default (See WIPO Overview 3.0 section 2.13.2). In this case, the Complainant has provided evidence that the goods sold on the Respondent's website are sold at a steep discount as compared to the originals sold by the Complainant, with some items offered at an 82% discount. Past Panels have held that goods sold at below market value can form circumstantial evidence which support a complainant's claim of counterfeit goods. The Panel therefore is satisfied that the goods sold on the Respondent's website are likely to be counterfeit and/or knockoff goods.

Further, the disputed domain name incorporates the Complainant's RIDGE mark in its entirety together with the term "USA" which the Panel finds is an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant. Previous UDRP panels ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. D2006-1095). To this end, prior UDRP panels have established that attracting Internet traffic by using a domain name that is identical or confusingly similar to create a likelihood of confusion with a registered trademark may be evidence of bad faith under paragraph 4(b)(iv) of the Policy.

The Complainant has also submitted evidence which shows that the Respondent registered the disputed domain name long after the Complainant registered the RIDGE trademark. Given the evidence presented to the Panel, the Panel finds that it is highly likely that the Respondent was aware of the Complainant and its RIDGE trademark at the time of registering the disputed domain name and specifically targeted the Complainant and its goodwill.

The Respondent did not submit a Response in this proceeding. Under the circumstances of this case, this is an additional indication of the Respondent's bad faith, which was considered by the Panel.

Accordingly, given the particular circumstances of this case, the reputation of the Complainant's trademark, and based on the evidence presented to the Panel, including (1) the registration of the disputed domain name long after the registration of the Complainant's trademark, (2) the confusing similarity of the disputed domain name with the Complainant's trademarks, (3) the likely sale of counterfeit and/or knockoff goods on the Respondent's website, and, (4) the failure of the Respondent to submit a response, the Panel draws the

inference that the disputed domain name was registered and is being used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **ridgeusa.com**: Transferred

PANELLISTS

Name	Jonathan Agmon
------	----------------

DATE OF PANEL DECISION 2023-09-21

Publish the Decision