Decision for dispute CAC-UDRP-106402

Case number	CAC-UDRP-106402
Time of filing	2024-04-09 11:22:43
Domain names	sonymusic-pub.com

Case administrator

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

Complainant

Organization	Sony Group Corporation

Complainant representative

Organization	Coöperatie SNB-REACT U.A.

Respondent

Name	Melissa Forde

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

Complainant's trademark registrations date back to the early 1960's, and some notable ones include:

- Mark: SONY
  Registration number: 0770275 - United States Patent and Trademark Office ("USPTO")
  Entered on register: May 26, 1964
  Registered in class 9 & 21
- Mark: SONY
  Registration number: 0777400 – USPTO
  Entered on register: September 22, 1964
  Registered in class 11 & 34
- Mark: SONY
  Registration number: 000000472 - European Union Intellectual Property Office ("EUIPO")
  Entered on register: May 5, 1998
  Mark: SONY
  Registration number: 005416243 - EUIPO
  Entered on register: August 17, 2007
  Mark: SONY MUSIC
  Registration number: EUTM 007503972
  Entered on register: July 29, 2009

Mark: SONY MUSIC
Registration number: USPTO 4403544
Entered on register: September 17, 2013
Registered in classes 9 and 41

The Respondent has not submitted anything in relation to identification of rights.

FACTUAL BACKGROUND

Complainant Sony Group Corporation is a leading manufacturer of consumer products such as audio and video products, computer games and mobile phones; professional products such as broadcasting, electronic components, professional solution and medical related equipment. Complainant has registered the “SONY” trademark(s) over a wide range of goods and services (such as “SONY”, “SONYMUSIC”.), in countries around the world, including in the United States and in the European Union.

Complainant owns numerous domain names relating to its “SONY” trademark, including since 1989 the domain name <sony.com>. The Complainant’s subsidiary has held the <sonymusicpub.com> domain name since January, 2020 for use by one of the Complainant’s subsidiaries, Sony Music Publishing (one of the major music publishers globally, hereinafter referred as “SMP”).

The disputed domain name <sonymusic-pub.com> was registered on 13 September 2023.

The Complainant alleges that disputed domain names infringed its rights in accordance with relevant UDRP policies and rules.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names should be transferred to it.

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 disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.**

Complainant Sony Group Corporation is a leading manufacturer of consumer products such as audio and video products, computer games and mobile phones; professional products such as broadcasting, electronic components, professional solution and medical related equipment. Complainant has registered the “SONY” and "SONYMUSIC" trademark(s) over a wide range of goods and services since as early as 1960s, in countries around the world, including in the United States and in the European Union.

UDRP panels have consistently recognized that the SONY mark is a well-known mark throughout the world. See, e.g., Sony Kabushiki Kaisha v. sony.net, WIPO Case No. D2000-1074, CAC Case No. 103603 (Sony Corporation v. Franklin Bailey – US-Sony.com).

Complainant owns numerous domain names relating to its “SONY” trademark, including since 1989 the domain name <sony.com>. The Complainant’s subsidiary has held the <sonymusicpub.com> domain name since January, 2020 for use by one of the Complainant’s subsidiaries, Sony Music Publishing.

The disputed domain name <sonymusic-pub.com> incorporates the Complainant’s "SONYMUSIC" trademark in their entirety. Aside from that, Respondent has added “pub” and the dash sign “-” after “SONYMUSIC” in the disputed domain name. “Pub” is likely meant as a shorthand for “Publishing”, just as in Complainant’s subsidiary’s official domain name <sonymusicpub.com>. Previous UDRP panels have consistently stated in this regard that “minor alterations cannot prevent a finding of confusing similarity between the trademark and the domain name” (See LinkedIn Corporation v. Daphne Reynolds, WIPO Case No. D2015-1679). The addition of element such as a dash sign cannot prevent a finding of confusing similarity. gTLDs such as “.com” are commonly viewed as a standard registration requirement, and as such they are disregarded under the first element confusing similarity test (WIPO Overview 3.0, section 1.11).

The Panel therefore concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

2. **The Respondent has no rights or legitimate interests in respect of the disputed domain name.**

Although the Respondent did not file an administratively compliant (or any) response, the Complainant is still required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant in the present case has not licensed or authorized the Respondent to register or use its trademark "SONY" or "SONYMUSIC" or the disputed domain name. This domain name has a date of registration by respondent of 13 September 2023, long after the Complainant commenced its use of any of its above listed trademarks. There is also no evidence that the Respondent "Melissa Forde" is known by the disputed domain name or owns any corresponding registered trademarks.

On the basis of preponderance of evidence, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

3. **The disputed domain name has been registered and is being used in bad faith.**

The use and registration of the disputed domain name by the Respondent has been done in bad faith.

First of all, the registration of the disputed domain name by the Respondent was done in bad faith. UDRP panels have consistently held that the mere registration of a domain name that is confusingly similar to a famous trademark by an unaffiliated entity can by itself create a presumption of bad faith. Like the Complainant puts forward, a large number of previous UDRP panels confirmed well-known status of the Complainant’s “SONY” mark (see e.g., CAC Case No. 103603, Sony Corporation v. Franklin Bailey – US-Sony.com). The brand and its registered mark enjoy a high level of distinctiveness and has develop a wide reputation. With the reputation of the “SONY” trademark, the presumption arises that the disputed domain name was registered with the intention to attract Internet users by creating a likelihood of confusion with the well-known “SONY” and “SONYMUSIC” trademark(s).

Secondly, the use of the disputed domain name was in bad faith. The Complainant mainly based its argument on paragraph 4(b)(iv) of the Policy. “(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.” If found by the panel, shall be evidence of the registration and use of a domain name in bad faith. The examples provided in paragraph 4(b) UDRP rules are not exhaustive.

In this case, it does not seem that Respondent has legitimate uses of the disputed domain name in addition to creating a likelihood of confusion with the Complainant’s trademark. The website seems to display a parking page. As the Complainant puts forward, phishing e-mails and quotations were sent out from the e-mail contact linked to the disputed domain name (@sonymusic-pub.com). Around January 2024, the Complainant received a screenshot from a concerned Internet user, which showed several e-mail messages received from/to iMessage accounts, originating from an @sonymusic-pub.com e-mail address. This use is intentional. It is more likely than not that the website operates for the commercial gain of the Respondent or the operators of the linked websites, or both. Therefore, the facts satisfy the requirements of paragraph 4(b)(iv) of the Policy.

Therefore, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel determines that the disputed domain name was registered and is being used in bad faith within the meaning of 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. **sonymusic-pub.com**: Transferred

PANELLISTS

Name	**Carrie Shang**

DATE OF PANEL DECISION 2024-05-22

Publish the Decision