Decision for dispute CAC-UDRP-106530

Case number	CAC-UDRP-106530
Time of filing	2024-05-20 09:51:44
Domain names	stefanoricci.pro

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	STEFANO RICCI S.P.A.

Complainant representative

Organization	Convey srl

Respondent

Name	Gleb Yadrincev

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 numerous national and international trademark registrations, eg. international trademark STEFANO RICCI (Reg. No. 407525), in Nice classes 18 and 25, registered since May 27, 1974 (extended in the Russian Federation), international trademark STEFANO RICCI (Reg. No. 1402542) in Nice classes 25, 26, 28, 35, registered since September 7, 2017 (extended in the European Union and in the Russian Federation).

FACTUAL BACKGROUND

The Complainant, Stefano Ricci S.p.A., was founded in Italy in 1972 and currently is one of the leading companies in the fashion and luxury industry. The Complainant has continuously and extensively used and advertised its trademark in multiple channels including the Internet, making denomination of STEFANO RICCI well-known in many parts of the world. The Complainant's menswear collection consists of a wide range of menswear suits, dress shirts, jeans, polo shirts, shoes, casual wear and neckties. In addition, Stefano Ricci S.p.A. produces exclusive cufflinks and leather goods, such as belts, bags and wallets. The brand's line is expanding with its home collections, in constant evolution, covering various types of products: porcelain and crystal dinner services, silverware, furnishing accessories, luxury linens and leather goods. The Complainant operates 22 boutiques internationally, including the Russian Federation.

The Complainant also owns domain names corresponding its trademark, including but not limited to <stefanoricci.com>,

<stefanoricci.it>, etc.

The disputed domain name was registered on October 5, 2023, and is currently linked to the Respondent's website named <elyts.ru> which is displaying copyrighted materials, logos and sponsoring products bearing upon STEFANO RICCI trademark without authorization.

Two cease and desist letters were sent via email to both the Respondent's email contact address listed in website corresponding to the domain name and to the owner of the disputed domain name listed in the WHOIS database. There was no answer.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name 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 Complainant filed the Complaint in English rather than in Russian (i.e. the language of the registration agreement). Pursuant to paragraph 11(a) of the Rules, unless otherwise agreed by the parties, or otherwise specified in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. Paragraph 10(b) and (c) of the Rules requires the Panel to ensure that the proceeding takes place with due expedition and that the parties are treated fairly and given a fair opportunity to present their respective cases.

The Complainant filed its Complaint in English and then requested that English be the language of the proceeding.

The Complainant noted the following factors supporting English as the fair language of the proceeding: (a) the disputed domain name contains Latin characters and the trademark STEFANO RICCI; (b) the domain name <.pro> is a generic top-level domain in the Domain Name System of the Internet, its name is derived from the English term "professional", indicating its intended use by certified professionals; (c) the translation of the Complaint into Russian would also cause additional expense and delay, making unfair to proceed in Russian; (d) English is the primary language for business and international relations.

The Panel agrees with the factors presented by the Complainant and also admits additional important factors in favour of the Complainant's option of English language for this proceeding: (a) the Respondent has been given the opportunity to present its case in this proceeding and to respond formally to the issue of the language of the proceeding; (b) the Respondent has not responded to the Complainant's request for a change of the language from Russian to English; (c) the Respondent likely has some understanding of English because he is using English terms in his website menu options (eg. "Evening", "Plus Size", "Home", "Sale"); (d) the Complainant would be unduly disadvantaged by having to proceed in Russian (i.e., by having to arrange and pay for the translation of the Complaint and annexes).

Considering the above circumstances, the Panel finds that the choice of English as the language of the present proceeding is fair to both parties and is not prejudicial to either one of the parties in his or her ability to articulate the arguments for this case.

The Panel has also taken into consideration the fact that insisting the Complaint and all supporting documents to be re-filed in

Russian would cause an unnecessary burden of cost to the Complainant and would unnecessarily delay the proceeding which would be contrary to Paragraph 10(b) and (c) of the Rules.

Having considered all the above matters, the Panel determines under paragraph 11(a) of the Rules that (i) it will accept the Complaint and all supporting materials as filed in English; and (ii) English will be the language of the proceeding and the decision will be rendered in English.

In view of all of the above, 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

The disputed domain name is identical to the Complainant's trademark STEFANO RICCI. The Complainant’s trademark is included to the disputed domain name in its entirety. It is well established in the UDRP case law that the addition of a generic Top-Level Domain (gTLD), here <.pro> (the gTLD intended for the providers of professional services), is typically disregarded under the first element when considering the confusing similarity between the Complainant’s trademark and the disputed domain name.

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, the Complainant has not licensed, authorized, or permitted Respondent to use Complainant’s trademarks in any manner, including in domain names. The Respondent's name (Gleb Yadrincev) 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.

On these bases, the Panel concludes that the Respondent does not have any rights or legitimate interests in regard to the disputed domain name.

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 evidently meant Complainant's trademark STEFANO RICCI, when he/she registered the disputed domain name <stefanoricci.pro> (see WIPO Overview 3.0, para. 3.1.3 and 3.2). Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

The disputed domain name was linked to the Respondent’s website named <elyts.ru> which is unlawfully displaying copyrighted materials, logos and sponsoring products bearing upon STEFANO RICCI trademark. This means that the Respondent is using the disputed domain name to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's STEFANO RICCI trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website. Therefore, this is evident use of the disputed domain name in bad faith (para. 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. **stefanoricci.pro**: Transferred

PANELLISTS

Name	**Darius Sauliūnas**

DATE OF PANEL DECISION 2024-06-25

Publish the Decision