Decision for dispute CAC-UDRP-107391

Case number	CAC-UDRP-107391
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Domain names	sportscheckoutlet.shop

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	SportScheck GmbH

Complainant representative

Organization	Lorenz Seidler Gossel

Respondent

Name	wu han yu chong shang mao you xian gong si

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 registered owner of the trademarks “SportScheck” (word mark), “SportScheck” (word and device mark), “SportScheck Wir machen Sport,” and “SportScheck RUN,” registered with the European Union Intellectual Property Office (EUIPO) and the German Patent and Trademark Office (GPTO), as follows:

- SportScheck (EUIPO Reg. No. 018443265), registered on October 21, 2021;
- SportScheck (word and device mark) (GPTO Reg. No. 30349339), registered on January 19, 2004;
- SportScheck Wir machen Sport (GPTO Reg. No. 30776984), registered on April 25, 2008; and
- SportScheck RUN (GPTO Reg. No. 302020110412), registered on September 15, 2020.

FACTUAL BACKGROUND

The Complainant’s company name, SportScheck GmbH, was registered on April 26, 2004, and has remained unchanged since. The Complainant is a well-known retailer of sporting goods—including skiing equipment, apparel, and related accessories—with a legacy tracing back to 1946, when its founder, Mr. Otto Scheck, created his first winter sports collection from repurposed military uniforms. Today, the Complainant is a highly regarded and trusted brand, particularly within Germany. As a modern retailer, the Complainant also operates an online shop under the domain name <sportscheck.com>.

The disputed domain name was registered on February 19, 2025. As of February 28, 2025, the date on which the Complainant issued a cease-and-desist letter to the Respondent, the website to which the disputed domain name resolved was:

- displaying the SportScheck mark in Facebook advertisements;
- utilizing the distinctive orange color associated with the Complainant;
- redirecting users from said advertisements to the website linked to the disputed domain name; and
- listing a contact email address configured with the disputed domain name.

At present, the disputed domain name no longer resolves to an active website.

PARTIES CONTENTIONS

COMPLAINANT:

(i) The Complainant holds rights in the trademarks “SportScheck” (word mark), “SportScheck” (word and device mark), “SportScheck Wir machen Sport,” and “SportScheck RUN” as set forth in the "Identification of Rights" section above. The disputed domain name is confusingly similar to the Complainant’s trademark “SportScheck” on multiple grounds, including phonetic similarity, visual similarity, conceptual or intellectual similarity, combination with a generic term, and contextual similarity based on associated content.

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The website to which the disputed domain name resolves, displays pop-up advertisements, and is designed to divert consumers, thereby tarnishing the Complainant’s trademark and reputation. Furthermore, the Respondent is using the disputed domain name in a manner that falsely suggests affiliation with or authorization by the Complainant, amounting to impersonation and deliberate misrepresentation.

(iii) The disputed domain name was registered and is being used in bad faith, thereby satisfying the cumulative requirement under the Policy that both bad faith registration and bad faith use be established. The Respondent registered the disputed domain name incorporating a well-known and widely recognized trademark, “SportScheck,” with no rights or legitimate interests in doing so. The disputed domain name resolved to a website that not only included misleading pop-up advertisements, but also infringed upon the Complainant’s intellectual property rights more broadly. The Respondent’s actions appear aimed at attracting Internet users for commercial gain by creating a likelihood of confusion with the Complainant, particularly given the substantial similarity between the Respondent’s website and the Complainant’s official website. Moreover, the disputed domain name has been associated with a website that contains links either directly to the Complainant’s website or that exploit the Complainant’s reputation for the purpose of misdirection and unfair competition. These circumstances, taken together, constitute clear evidence of bad faith registration and use under the Policy.

RESPONDENT:

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

Paragraph 15(a) of the Rules for the UDRP ('the Policy') instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy requires that complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

(1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(2) Respondent has no rights or legitimate interests in respect of the domain name; and

(3) the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory. See Vertical Solutions Mgmt., Inc. v. webnetmarketing, inc., FA 95095 (FORUM July 31, 2000) (holding that the respondent's failure to respond allows all reasonable inferences of fact in the allegations of the complaint to be deemed true); see also Talk City, Inc. v. Robertson, D2000-0009 (WIPO Feb. 29, 2000) ("In the absence of a response, it is appropriate to accept as true all allegations of the Complaint.").

Rights

The Complainant asserts ownership of the registered trademarks "SportScheck" (word mark), "SportScheck" (word and device mark), "SportScheck Wir machen Sport," and "SportScheck RUN" as identified in the "Identification of Rights" section above. The Panel recognizes that an international or national trademark registration is sufficient to establish rights in a mark. Accordingly, the Panel finds that the Complainant has established its rights in the "SportScheck" trademark.

The Complainant further contends that the disputed domain name is confusingly similar to its "SportScheck" mark, on multiple grounds, including phonetic similarity, visual similarity, conceptual or intellectual similarity, combination with a generic term, and contextual similarity based on associated content. The Panel notes that the disputed domain name fully incorporates the mark with the mere addition of the generic or descriptive term "outlet" and the ".shop" gTLD. The addition of a generic or descriptive term and a gTLD does not sufficiently distinguish a disputed domain name from a trademark. See Franklin Covey Co. v. franklincoveykorea, FA 1774660 (Forum Apr. 11, 2018) ("The addition of a geographic term and a gTLD does not negate confusing similarity between a domain name and a mark per Policy paragraph 4(a)(i)."); see also DBI Brands Management LLC v. Client Care / Web Commerce Communications Limited, FA 2059984 (Forum Sept. 28, 2023) (holding that the addition of a geographic term and a gTLD does not eliminate confusing similarity between a domain name and a mark under Policy paragraph 4(a)(i)). Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's "SportScheck" mark.

No rights or legitimate interests

A complainant must first make a prima facie case that a respondent lacks rights and legitimate interests in the disputed domain name under Policy paragraph 4(a)(ii), after which the burden shifts to the Respondent to demonstrate it does have rights or legitimate interests. See Section 2.1, WIPO Jurisprudential Overview 3.0 ("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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.").

Relevant information, such as WHOIS data, can serve as evidence to demonstrate whether a respondent is or is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii). The Panel notes that the WHOIS data lists "wu han yu chong shang mao you xian gong si" as the registrant, and there is no evidence in the record indicating that the Respondent was authorized to use the mark. Therefore, the Panel finds that the Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).

The Complainant asserts that the website to which the disputed domain name resolves, displays pop-up advertisements and is specifically designed to divert consumers, thereby tarnishing the Complainant's trademark and reputation. Moreover, the Respondent is using the disputed domain name in a manner that falsely suggests affiliation with or authorization by the Complainant, amounting to deliberate impersonation and misrepresentation.

As outlined in the cease-and-desist letter sent by the Complainant to the Respondent on February 28, 2025, the website associated with the disputed domain name was:

- displaying the SportScheck mark in Facebook advertisements;
- utilizing the distinctive orange color that is closely associated with the Complainant;
- redirecting users from the misleading Facebook advertisements to the website linked to the disputed domain name; and
- listing a contact email address configured with the disputed domain name.

At present, the disputed domain name no longer resolves to an active website. However, the foregoing facts demonstrate that the Respondent engaged in passing off by falsely presenting the disputed website as affiliated with the Complainant's legitimate business.

When a respondent uses a disputed domain name to impersonate a complainant, the Panel may find that such conduct does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use, under paragraph 4(c)(i) or (iii) of the Policy. See Würth International AG v. Mandy Mohr, CAC-UDRP-107275 (CAC March 17, 2025) (holding that the use of a domain name to feature the complainant's mark and related content did not qualify as a bona fide offering or a legitimate noncommercial use under Policy paragraph 4(c)(i) or (iii)).

The Complainant provides a copy of the cease-and-desist letter to demonstrate that the Respondent deliberately engaged in passing off, orchestrated through deceptive Facebook advertisements such as the one included in the letter. As shown in the Facebook ad, the Respondent falsely presents itself as the Complainant, using the "SportScheck" mark and referencing the Complainant's legitimate domain name sportscheck.com. However, when users click on the ad, they are not directed to the Complainant's official website, but instead to a fraudulent online shop operated under the disputed domain name. This website continues the deception, reinforcing the false impression that the user is on the Complainant's "official outlet site."

This impression is further amplified by the inclusion of the distinctive term "SportScheck" in the domain name, while the generic term "outlet" merely serves to support the false narrative of discounted offers—consistent with what was seen in the misleading Facebook ad. The use of the color orange on the website further misleads consumers, as this color is an essential part of the Complainant's corporate identity, reflected in its German trademark registrations No. 30349339 and No. 302020110412, both of which feature the word mark "SportScheck" in orange stylization.

The Panel finds that the Respondent's conduct is fraudulent, creates a clear likelihood of confusion with the Complainant's trademarks, and is intended to mislead and disrupt Internet users. Accordingly, the Panel determines that the Respondent's conduct does not constitute use of the disputed domain name in connection with a bona fide offering of goods or services under Policy paragraph 4(c)(i), nor a legitimate noncommercial or fair use under paragraph 4(c)(iii).

Based on the foregoing, the Panel finds that it has established a prima facie case against the Respondent. As the Respondent has failed to submit a Response or otherwise rebut the Complainant's allegations, the Complainant respectfully requests that the Panel find that the Respondent has no rights or legitimate interests in the disputed domain name under paragraph 4(a)(ii) of the Policy.

Bad faith

Paragraph 4(b) of the Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. Any one of the following is sufficient to support a finding of bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Complainant asserts that the Respondent registered and is using the disputed domain name in bad faith by intentionally disrupting the Complainant's business and seeking to attract Internet users to a competing website for commercial gain. The Panel notes that when a respondent impersonates a complainant through a disputed domain name, such conduct constitutes bad faith disruption of the complainant's business under Policy paragraph 4(b)(iii) and reflects an intent to commercially benefit by creating confusion under Policy paragraph 4(b)(iv). See Xiaomi Inc. v. Nguyễn Đức Đạt (N/A), CAC-UDRP-107237 (CAC Feb. 12, 2025) (finding that the respondent's use of a disputed domain name to offer competing products disrupted the complainant's business and misled Internet users by falsely suggesting affiliation with the complainant, thereby supporting a finding of bad faith registration and use under Policy paragraph 4(b)(iv)).

As previously noted, the Respondent's website displayed the "SportScheck" mark in Facebook advertisements, utilized the distinctive orange color strongly associated with the Complainant's branding, redirected users from these misleading ads to the website linked to the disputed domain name, and listed a contact email address incorporating the disputed domain name. The Panel finds that the Respondent's actions are designed to impersonate the Complainant and mislead Internet users into believing they are interacting with the Complainant or an affiliated outlet. Such conduct not only creates a likelihood of confusion, but also intentionally diverts consumers away from the Complainant's official website, thereby interfering with the Complainant's business operations and exploiting the goodwill attached to its mark. Accordingly, the Panel concludes that these actions fulfill the criteria for bad faith registration and use under Policy paragraph 4(b)(iv).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **sportscheckoutlet.shop**: Transferred

PANELLISTS

Name	**Mr. Ho-Hyun Nahm Esq.**

DATE OF PANEL DECISION 2025-04-12

Publish the Decision