



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1901237
Complainant:	Rimowa GmbH
Respondent:	Ling Lin
Disputed Domain Name(s):	<rimowbag.com>

1. The Parties and Contested Domain Name

The Complainant is Rimowa GmbH, of Mathias-Bruggen-Str. 118, 50829 Köln, Germany.

The Respondent is Ling Lin, of 39th Nanjing rd xuanchengqu, 210000 Nanjing, Jiangsu, China.

The domain name at issue is <rimowbag.com>, registered by Respondent with GoDaddy.com, LLC.


2. Procedural History

The Complaint was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC) on March 27, 2019, regarding the domain name <rimowbag.com>. On April 17, 2019, the ADNDRC verified that the Complainant satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and on April 17, 2019 the Respondent was notified of the Complaint. The due date of the Response was May 7, 2019. The Respondent did not file a formal Response and May 8, 2019 the ADNDRC informed the Respondent of its default. The ADNDRC appointed Jonathan Agmon as the sole panelist in this matter on June 3, 2019.



3. Factual background

The Complainant is a renowned designer, manufacturer and distributor of premium luggage and suitcases under the "RIMOWA" brand. The company was founded by Paul Morszeck in Cologne, Germany in 1898, and began selling its goods under the RIMOWA mark in 1937 under the leadership of the founder's son, Richard Morszeck. The brand name RIMOWA was derived from the words Richard Morszeck Warenzeichen (Warenzeichen being German for "trademark").

In 1937, the Complainant introduced the first trunks made of aluminum to the market which was the first time that lightweight metal was used as the main material for trunks. In 1950, the Complainant began to produce aluminum suitcases with its signature grooves. The iconic grooves are a distinctive mark of RIMOWA luggage. In 2000, the Complainant's current CEO and President, Dieter Morszeck (the founder's grandson) commissioned the first lightweight luggage series made of recyclable polycarbonate. Polycarbonate is an extremely resilient and lightweight material used for aircraft windows and in vehicle construction. The Complainant was the first manufacturer to use this material in luggage production, resulting in cases that are lightweight, robust and durable.

The Complainant is known for its aluminum and polycarbonate luggage of high quality. The cases are constructed in the Complainant's manufacturing facilities located in Germany, Canada, The Czech Republic and Brazil. Each RIMOWA case bears the "RIMOWA" mark and has an additional seal of quality "DESIGN by  " engraved into the suitcase frame. The Complainant's RIMOWA luggage is widely used for travel and has also been featured in over 250 films. The Complainant now operates in business through a number of subsidiaries and affiliates and sells its RIMOWA luggage in over 100 stores around the world, 65 of which are in Asia. The Complainant entered the Chinese market in 2007 and now has over 25 RIMOWA stores in China. It also runs an official store on Tmall, China's leading business-to-consumer (B2C) shopping destination for brand-name goods.

The Complainant is the owner of numerous trademarks worldwide for the RIMOWA marks, including but not limited to:

- " " (Reg No. 1118481) registered in Germany on February 26, 1988;
- "RIMOWA" (Reg No. 302013020771) registered in Germany on June 13, 2013;
- " " (Reg No. 900551) registered in China on November 21, 1996;
- " " (Reg No. 902628) registered in China on November 21, 1996;
- " " (Reg No. 5618835) registered in China on September 21, 2009;
- "RIMOWA" (Reg No. 12727859) registered in China on October 28, 2014; and
- "RIMOWA" (Reg No. 12727857) registered in China on October 28, 2014.

The disputed domain name <rimowbag.com> was registered on November 6, 2018 and resolves to an active website with the Complainant's RIMOWA marks that sell goods at a heavily discounted price.

The Respondent is Ling Lin, an individual residing in China.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Complainant argues that the disputed domain name is confusingly similar to its RIMOWA mark as <rimowbag.com> incorporates the RIMOWA mark almost in its entirety and "bag" is an alternative meaning of suitcase.

- ii. The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name as it has not licensed, consented to or otherwise authorized the Respondent's use of the RIMOWA marks and that the Respondent is not commonly known by the disputed domain name.
- iii. The Complainant further argues that the Respondent registered and is using the disputed domain name in bad faith to mislead Internet users into believing that the Respondent is associated with the Complainant for the purposes of selling it for commercial gain, to sell the disputed domain name for profit and/or to prevent the Complainant from reflecting its RIMOWA marks in a corresponding domain name.

B. Respondent

The Respondent did not file a Response to the Complaint.

5. Findings

The Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed 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. In the present case, the Complainant has provided evidence of its numerous trademarks' registrations in Germany and China.

It is well established that a common, obvious or intentional misspelling of a trademark is considered by panels to be confusingly similar to a complainant's mark. (See WIPO Overview 3.0, section 1.9) It is also well established that the insertion of a generic descriptive term does not differentiate a disputed domain name from a complainant's mark. (see *WIPO Overview 3.0*, section 1.8; *TPI Holdings, Inc. v. Carmen Armengol*, WIPO Case No. D2009-0361.)

In the present case, the disputed domain name appears to consist of an intentional misspelling of the Complainant's RIMOWA mark as "rimow" and the insertion of a generic descriptive term, "bag". The removal of the letter "a" from the mark as well as the insertion of the generic descriptive term "bag" does not distinguish the disputed domain name from the Complainant's RIMOWA mark nor does it avoid

confusing similarity when considered as a whole. Moreover, the term “bag” is closely associated with the Complainant’s brand and trademark which only serves to increase the likelihood of confusing similarity between the disputed domain name and the Complainant’s trademark. See *Inter IKEA Systems B.V. v. Franklin Lavall?e/IkeaCuisine.net*, WIPO Case No. D2015-2042 (“The confusing similarity between the disputed domain name and the Complainant’s IKEA trade mark is in fact further enhanced by the inclusion of a term that relates to the furniture business of the Complainant.”)

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.

B) Rights and 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition (“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 various trademark registrations in Germany and China long before 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 *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. (See WIPO Overview 3.0, section 2.3). Further, the addition of the term “bag” to the disputed domain name is within the Complainant’s field of commerce or indicating services related to the RIMOWA marks which likely triggers an inference of affiliation with the Complainant and does not constitute legitimate fair use of the domain name. (See WIPO Overview 3.0, section 2.5.1.)

Further, in the present case, the Respondent did not submit a Response to the Complainant and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name 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.

C) 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 has submitted evidence, which shows that the Respondent registered the disputed domain name long after the Complainant registered its trademark. According to the evidence filed by the Complainant, the Complainant has owned registration for the RIMOWA trademarks since the year 1988. In view of the evidence filed by the Complainant, and the widespread use of the RIMOWA marks, it is suggestive of the Respondent's bad faith in these particular circumstances that the trademark, owned by the Complainant, was registered long before the registration of the disputed domain name (*Sanofi-Aventis v. Abigail Wallace*, WIPO Case No. D2009-0735).

Furthermore, the disputed domain name includes a misspelling of the Complainant's trademark together with the term "bag". Previous UDRP panels ruled that in such occurrences "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 confusingly similar to a registered trademark may be evidence of bad faith under paragraph 4(b)(iv) of the UDRP.

The evidence filed with the Panel shows that the goods offered on the website under the disputed domain name appear to have the same signature grooves that all of the Complainant's bags have; some of the goods offered appear to be counterfeit carrying the Complainant's trademark and offered at extremely low prices. Moreover, the "about us" page in the website was edited in such a way so as to convey the impression that the website is connected, sponsored, affiliated or belongs to the Complainant, when in fact it does not. The Panel is convinced that on the balance, the Respondent is targeting of the Complainant in view of the fact that the Complainant's trademark is highly distinctive, the website under the disputed domain name comprises the Complainant's trademark, and the website under the disputed domain name offers goods, which compete with the Complainant, those offered at a heavy discount. In the particular circumstances of the present case, given the Complainant's fame and reputation globally, it is clear that the Respondent knew or should have known of the Complainant's RIMOWA marks and has targeted the Complainant to mislead and confuse unsuspecting Internet users to its website to increase the number of visitors for commercial gain.

The Panel also draws inference from the fact that the Respondent is using a privacy shield to hide his/her identity which is further indication of the Respondent's bad faith. (See WIPO Overview 3.0, section 3.2.1)

Based on the evidence presented to the Panel, including the registration of the disputed domain name long after the registration of the Complainant's marks, the confusing similarity between the disputed domain name and the Complainant's marks, the Respondent's use of the disputed domain name, the Respondent's failure to present any credible rationale for registering the disputed domain name, and the fact that is no plausible good faith use the Respondent can put the disputed domain name to, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

6. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <rimowbag.com> be transferred to the Complainant.



Jonathan Agmon
Panelist

Dated: June 17, 2019