Decision for dispute CAC-UDRP-101595

Case number	CAC-UDRP-101595
Time of filing	2017-08-08 10:47:50
Domain names	loropiana.clothing

Case administrator

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

Complainant

Organization	Loro Piana S.p.A.

Complainant representative

Organization	Barzanò & Zanardo Roma S.p.A.

Respondent

Name	Robert Remy

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceeding relating the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns more than 700 trademark registrations worldwide, consisting of, or containing, the terms LORO PIANA and more that 300 domain names identical or comprising to LORO PIANA in all existing ccTLDs and in most of the available gTLDs.

The reputation of the LORO PIANA trademarks has already been established by previous UDRP Panelists, see WIPO Case No. D2011-1871 of December 29, 2011 - Loro Piana S.p.A./Mr. Sun King, where the Panel expressly recognized that the trademark LORO PIANA is well-known: “[t]he Respondent is not commonly known by the expression “loro-piana”, which consists of a well-known trademark directly connected with the Complainant’s business; WIPO Case No. D2012-1114 of July 16, 2012 – Loro Piana S.p.A.- Duan Zuochun - which states that “having regards to the evidence adduced by the Complainant in relation to its registered trade mark, LORO PIANA, and in particular its 700 trademark registrations around the world, including in Canada, where the Respondent appears to be located. and the evidence as to its long use and reputation, it cannot be in dispute that the Complainant has established rights in its LORO PIANA mark”; WIPO Case No. D2009-0085 - Loro Piana S.p.A. vs. Harry Hill and ADR Case No. 100872 of January 5, 2015, Loro Piana S.p.A. vs. Papa Coulson).

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The disputed domain name, consisting of the second level domain name “LOROPIANA", followed by the gTLD “.clothing” is identical to the earlier Complainant’s trademarks. The addition of the gTLD “.clothing” does not render the disputed domain name different from the Complainant’s earlier well-known trademark since it is a mere technical requirement and therefore does not affect the identity between the two signs. According to established UDRP case-law, gTLDs are not taken into consideration when assessing the identity/similarity between a trademark and a domain name.

The Respondent is not commonly known by the name LORO PIANA. A world trademark search conducted on the Respondent’s name did not reveal any LORO PIANA trademark in the Respondent’s name. All LORO PIANA trademarks are exclusively associated with the Complainant. A Google search conducted on July 2, 2017 shows that all relevant results refer indisputably and solely to the Complainant’s activity.

PARTIES CONTENTIONS

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

A) Confusing Similarity

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's international trademark “LOROPIANA”. The Panel agrees with the Complainant's assertion that TLD as well as "new TLD" as ".clothing" is a standard registration requirement which does not add a distinctive character to the disputed domain name, according also to §1.11 of WIPO Jurisprudential Overwies 3.0.

B) Lack of rights or legitimate interests

The Panel shares in full Complainant‘s arguments that the Respondent registered the disputed domain name having the Complainant in mind. The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is neither affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show using concrete evidence that it does have rights or legitimate interests in the disputed domain name. Lack of any response is another element against Respondent's legitimate use or interest in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant provides records showing that the Respondent operates activities in the field of cashmere, which is the market area where LOROPIANA enjoys worldwide reputation, including Canada (Respondent's place of business). It has been demonstrated that the Respondent owns the <blackgoatcashmere.com> domain name. This clearly demonstrates the bad faith registration and usage of the domain name, which today hosts a pay-per-click parking service aimed at exploiting the fame of LOROPIANA in the "clothing&apparel" market sector. The Panel is fully persuaded by Complainant's allegations also with reference to § 3.8 Wipo Overview 3.0.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **LOROPIANA.CLOTHING**: Transferred

PANELLISTS

Name	**Roberto Manno**

DATE OF PANEL DECISION 2017-09-08

Publish the Decision