Decision for dispute CAC-UDRP-101930

Case number	CAC-UDRP-101930
Time of filing	2018-03-26 09:02:45
Domain names	ropaplein.info

Case administrator

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

Complainant

Name	Philipp Plein

Complainant representative

Organization	Barzanò & Zanardo Milano S.p.A.

Respondent

Name	he ge

OTHER LEGAL PROCEEDINGS

None of which the Panel is aware.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following EU registered trademarks for goods in classes 3, 14, 18, 20, 21, 24, 25 and 28:

(i) PLEIN, No. 010744837, registered on August 1, 2012;

(ii) PP (figurative), No. 009869777, registered on March 3, 2013;

(iii) PHILIPP PLEIN, No. 002966505, registered on January 21, 2005.

FACTUAL BACKGROUND

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

The Complainant is the German fashion designer Philipp Plein, founder of the eponymous brand which is universally recognized as a leading brand in the luxury fashion industry. Due to its longstanding use and huge promotional and advertising investments, the PHILIPP PLEIN trademark is certainly well known.

The disputed domain name, <ropaplein.info> ("the Domain Name") was registered on January 19, 2017, in the name of he ge. The Domain Name resolves to a website offering for sale what appear to be Philipp Plein goods and displaying the Complainant's word and figurative trademarks, together with copies of photos of clothing from the Complainant's website.

The Complainant denies that the Respondent is an authorized dealer, agent, distributor, wholesaler or retailer of the Complainant and says the Complainant has never authorized the Respondent to include its well-known trademark in the Domain Name, nor to make any other use of its trademark. The Complainant is unaware of any evidence tending to demonstrate that the Respondent is commonly known by the Domain Name.

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

In accordance with paragraph 4(a) of the Policy, to obtain transfer of the Domain Name, the Complainant must prove the following three elements: (i) the Respondent’s Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) the Respondent has no rights or legitimate interests in the Domain Name; and (iii) the Respondent has registered the Domain Name and is using it in bad faith.

Under paragraph 15(a) of the Rules, “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

The Respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, asserted facts may be taken as true and reasonable inferences may be drawn from the information provided by the Complainant. See Reuters Limited v. Global Net 2000, Inc, WIPO Case No. D2000-0441.

The Panel accepts the Complainant's contention that the Domain Name is confusingly similar to a trademark or service mark in which the Complainant has rights. The Domain Name contains the Complainant's PLEIN trademark in its entirety. The addition of the generic and descriptive word “ROPA” (Spanish for "clothing") does nothing to detract from the distinctiveness of the PLEIN mark. The gTLD ".info" may be disregarded. See Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr., WIPO Case No. D2000-1525.

The Panel finds that the PLEIN and PHILIPPE PLEIN marks are distinctive and widely known. The Complainant's assertions are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in respect of the Domain Name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the Domain Name. See Cassava Enterprises Limited, Cassava Enterprises (Gibraltar) Limited v. Victor Chandler International Limited, WIPO Case No. D2004-0753. The Respondent has made no attempt to do so. In the circumstances of this case, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name.

Having regard to the use to which the Domain Name is being put, namely offering for sale what appear to be Philipp Plein goods and displaying the Complainant's word and figurative trademarks, together with copies of photos of clothing from the Complainant's website, the Panel is satisfied that, by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and of the products on its website. Under sub-paragraph 4(b)(iv) of the Policy, these circumstances are evidence of both bad faith registration and bad faith use for purposes of paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ROPAPLEIN.INFO**: Transferred

PANELLISTS

Name	**Alan Limbury**

DATE OF PANEL DECISION 2018-05-01

Publish the Decision