Decision for dispute CAC-UDRP-101960

Case number	**CAC-UDRP-101960**
Time of filing	**2018-06-13 10:46:55**
Domain names	**ZINODAVIDOFF.STORE**

Case administrator

Name	**Sandra Lanczová (Case admin)**

Complainant

Organization	**Zino Davidoff SA**

Complainant representative

Organization	**BrandIT GmbH**

Respondent

Name	**Ranjit Kutti Krishnan**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, the owner of the following trade mark registrations:

Trade mark: ZINO DAVIDOFF (IR)
Registration no: 467511
Classes: 3, 14, 15, 16, 18, 20, 21, 25, 33 & 34.
Date of registration: 27.01.1982

Trade mark: ZINO DAVIDOFF (local Indian trademark)
Application no: 454873
Classes: 3
Date of application: 30.05.1986
Date of expiration: 30.05.2027

The Complainant has also registered a number of domain names under generic Top-Level Domains and country-code Top-Level Domains containing the term “DAVIDOFF” or “ZINO DAVIDOFF”, for example, zinodavidoff.com.

FACTUAL BACKGROUND

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

The Complainant is a company incorporated in Fribourg, Switzerland and is a leading producer of prestige fragrances, handbags, eyewear, as well as exclusive timepieces, writing instruments and leather accessories and other goods that enjoy a high reputation. The Complainant’s brands have been continuously used and marketed for over 30 years and in 1984 Complainant launched perfumery and cosmetics and since then Complainant has launched watches, clothing, cognac, leather goods, glasses, writing instruments, coffee etc. and the business has been continuously expanded and the scope of the goods bearing the trade mark DAVIDOFF extends.

The Complainant and its trade marks enjoy a high reputation around the world due to the Complainant’s long-term use and publicity. The Complainant has continually and heavily invested in publicizing and advertising its trade marks around the world including India where the Respondent is domiciled. The Complainant’s goods are also often sold on the flights to and from India and appear among others in in-flight catalogues and magazines. Therefore, numerous passengers (including a number of Indian passengers) have a very convenient way to directly access the Complainant’s goods.

The Complainant also publicizes and promotes its brands by sponsoring and organizing a variety of activities and events. In India, the Complainant has several stores at the Cochin International Airport in Kerala, India.

Due to extensive use, advertising and revenue associated with its trade marks worldwide, the Complainant enjoys a high degree of renown around the world, including in India, where the Respondent is located.

The Respondent registered the disputed domain name "zinodavidoff.store" on 21 February, 2018 and it appears that it has used it to pretend to run a fasion shop.

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

I. The Panel finds that the disputed domain name is identical or confusingly similar to the Complainant`s trademarks (within the meaning of paragraph 4(a)(i)of the Policy).

The Panel agrees with the Complainant that the disputed domain name is identical to the Complainant`s trade mark "ZINO DAVIDOFF". The disputed domain name wholly incorporates the term “ZINO DAVIDOFF”. The top level domain "store" can be disregarded in this assessment, as it is understood descriptively, only.

II. The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

No arguments, why the Respondent could have own rights or legitimate interests in the disputed domain name are at hand. Further, the Respondent is not commonly known by the disputed domain name. Therefore, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in the disputed domain name.

III. The Panel finds that the Domain Name has been registered and being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

The timing of the registration of the disputed domain name indicates the Respondent`s bad faith in registering such domain name, as, at that time, the Complainant`s trade mark “ZINO DAVIDOFF” was already known for decades and protected in several countries including the country India, where the Respondent is domiciled. The Panel has no reason to disbelieve the Complainant, when it argues that the Respondent knew the Complainant and its activities at the time of registration and sought to hinder the Complainant from registering the disputed domain name itself and/or intentionally attempted to attract, for commercial gain, Internet users to its web site or other online location, by creating a likelihood of confusion with the Complainant's trademark. The Respondent used the disputed domain name for a website indicating that it runs a fashion shop under the trade mark "ZINO DAVIDOFF" or in the name "ZINO DAVIDOFF". There is no evidence that the Respondent has registered and is using the disputed domain name freely and without reference to the Complainant`s trade marks.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ZINODAVIDOFF.STORE**: Transferred

PANELLISTS

Name	**Dominik Eickemeier**

DATE OF PANEL DECISION 2018-07-19

Publish the Decision