Decision for dispute CAC-UDRP-102175

Case number	CAC-UDRP-102175
Time of filing	2018-09-25 10:30:13
Domain names	bruicladdich.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Bruichladdich Distillery Company Limited

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Fundacion Comercio Electronico

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided between the same parties and relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademark registrations consisting of the term “BRUICHLADDICH”, in particular International trademark BRUICHLADDICH no. 929602 registered on 24/05/2007.

FACTUAL BACKGROUND

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

The Complainant is Bruichladdich Distillery Company Limited. It results from the Complainant’s undisputed allegations that it is a Scottish alcohol manufacturer that produces a wide range Scotch whisky named BRUICHLADDICH since 1881 and is a 100%-owned subsidiary of the REMY COINTREAU Group The Complainant is also the owner of the domain name <bruichladdich.com> registered on 04/02/1999.

The disputed domain name was registerd on 27.08.2018 and resolved to a registar parking page displaying sponsored links.

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

1. The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark. In the case at issue the Complainant’s registered trademark “BRUICHLADDICH” is almost fully included in the disputed domain name.
On this regard, it is the view of this Panel that the deletion of the element “h” between the letters “c” and “l” results to be an irrelevant minor variation and a common, obvious or intentional misspelling when typing the trademark “BRUICHLADDICH”. Thus the domain name contains sufficiently recognizable aspects of the relevant mark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Jurisprudential Overview 3.0”) at point 1.9.

2. In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.
In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and he is not related in any way to the Complainant’s business. In addition, the Respondent is not commonly known by the disputed domain name. Finally, the website to which the disputed domain name resolved is a parking page displaying sponsored links. Such use can neither be considered as bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

3. Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith.
It is the view of this Panel that the Respondent has intentionally registered the disputed domain name which employs a misspelling of the trademark BRUICHLADDICH of the Complainant, that has been established more than a century ago. By the time the disputed domain name was registered, it is unlikely that the Respondent did not have knowledge of the Complainant’s rights on its trademark BRUICHLADDICH. The Complainant also proved that the Respondent was using the disputed domain name to lead to a parking page, displaying sponsored links, so that the Panel is satisfied that the disputed domain name is used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location, or of a product or service on the Respondent's web site or location. The finding of bad faith is confirmed by the fact that Respondent failed to submit a response and that it hides its identity behind a proxy registration service.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

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Accepted

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

1. **BRUICLADDICH.COM**: Transferred

PANELLISTS

Name	**Dr. Federica Togo**

DATE OF PANEL DECISION 2018-11-02

Publish the Decision