Decision for dispute CAC-UDRP-102893

Case number	CAC-UDRP-102893
Time of filing	2020-02-04 09:17:37
Domain names	biodermaskincare.com

Case administrator

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

Complainant

Organization	NAOS

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	ADM

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any related proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of the International trademark registration 267207 BIODERMA registered on March 19, 1963 in class 3 being in effect.

FACTUAL BACKGROUND

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

The Complainant was founded 40 years ago and is a mayor player in the field of skincare products and sells its products under the trademark BIODERMA in over 90 countries.

The disputed domain name was registered on January 15, 2020. A website under the disputed domain name shows products of competitors of the Complainant.

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 Complainant has established the fact that it has valid trademark rights for BIODERMA in class 3. The disputed domain name is confusingly similar to the trademark of the Complainant since the part “scincare” of the disputed domain name is descriptive and does not significantly contribute to the distinctiveness of the mark.

The Panel therefore considers the disputed domain name to be confusingly similar to the BIODERMA trademarks in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

2. The Respondent has no rights or legitimate interests in the disputed domain name as the Respondent is not a licensee of the Complainant nor has the Complainant granted the Respondent any permission or given its consent to use its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name as there is no indication that the Respondent is commonly known by the name “BIODERMA” or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

3. In the view of the Panel, the Respondent must have been aware of the widely known Complainant and its trademarks when registering the disputed domain name. The Complainant has not authorized the Respondent to make use of its trademarks. From the record, the Panel does not see any conceivable legitimate use being made by the Respondent of the disputed domain name.

The circumstances of this case, in particular the website showing competitive products indicate that the Respondent registered and uses the disputed domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BIODERMASKINCARE.COM**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2020-02-27

Publish the Decision