Decision for dispute CAC-UDRP-103511

Case number	CAC-UDRP-103511
Time of filing	2021-01-19 09:53:09
Domain names	GO-SPORT-FR.COM, GO-SPORT.STORE

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	GROUPE GO SPORT

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Carsholede

OTHER LEGAL PROCEEDINGS

The Panel is not informed of any other pending or decided legal proceedings relating to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainants have provided evidence of being the owners of the following trademarks:

- International trademark “GO Sport” n°1221297, registered since June 19th, 2014;

- International trademark “GO Sport” n°1221790, registered since June 20th, 2014;

- International trademark “GO Sport” n°523820, registered since February 29th, 1988; and

- International trademark “GO Sport” n°702165, registered since August 06th, 1998.

FACTUAL BACKGROUND

Founded in 1979, the Complainant is a French company specialized in the distribution of sporting goods.

Over the years, “GO Sport” has developed into one of the leading sporting goods stores, while Courir has set a new benchmark for the sneaker fashion industry. Incorporated into GO Sport Group in 2014, Twinner is a network of stores that

emphasizes the values of authenticity and connection to nature.

These three brands gradually grew in France and steadily developed in other countries, first in Poland, where “GO Sport” launched in 1999, and then on all continents, with the rapid success of the master franchise and a leading position in the Middle East.

Furthermore, the Complainant owns multiple domain names consisting in the wording “GO SPORT”, such as <go-sport.com> registered and used since September 28th,1997.

The disputed domain names were registered on January 11th, 2021 <go-sport-fr.com> and January 08th, 2021 <go-sport.store>. Both disputed domain names resolve to an online shop.

PARTIES CONTENTIONS

COMPLAINANT

In accordance with the disclosure of Registrant's information, the Complainant confirms the Respondent uses two false identities to register the disputed domain names for the following reasons:

- Same registrar: Tucows
- The disputed domain names were registered on the same period: <GO-SPORT-FR.COM> (January 11th, 2021); <GO-SPORT.STORE> (January 8th, 2021)
- Within the prefix (+33 and +41) the same phone number: 0652415241
- Same domain name for email: @tempr.email
- The domain names use the same DNS Zone:

GO-SPORT-FR.COM:
Redirection du RR @
23.227.38.73
Redirection du RR www
SHOPS.MYSHOPIFY.COM.
23.227.38.74
Redirection MX du RR @
1 MX.GO-SPORT-FR.COM.CUST.B.HOSTEDEMAIL.COM.

GO-SPORT.STORE:
Redirection du RR @
23.227.38.36
Redirection du RR www
SHOPS.MYSHOPIFY.COM.
23.227.38.74
Redirection MX du RR @
1 MX.GO-SPORT.STORE.CUST.B.HOSTEDEMAIL.COM.

Finally, the companies "Carsholede" (25 Rue Notre Dame de Nazareth Paris FR) and "Shoessporte" (Rue du Rhone 50 Geneve CH) do not exist.

A. THE DOMAIN NAMES ARE IDENTICAL OR CONFUSINGLY SIMILAR

The Complainant states that the disputed domain names are confusingly similar to its trademark “GO SPORT”.

The Complainant contends that addition of the gTLD suffix ‘’.COM” or “.STORE” is not sufficient to escape the finding that

the disputed domain names are identical to the Complainant's trademark and does not change the overall impression of the designation as being connected to its trademark.

Moreover, the websites display the Complainant's logo "Go SPORT".

Consequently, the disputed domain names are identical to the Complainant's trademark.

B. RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN RESPECT OF THE DOMAIN NAMES

A complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

The Complainant asserts that the Respondent is not identified in the WhoIs database as the disputed domain names. The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks "GO SPORT", or apply for registration of the disputed domain names by the Complainant.

The disputed domain names point to websites reproducing the Complainant's logo. Therefore, the Respondent gives the impression to be the Complainant or affiliated retailer. However, on disclaimer page, the websites indicate to be the company "Omoda.FR", a Complainant's competitor.

The Complainant contends that the Respondent is not an authorized retailer or has any particular connection with the Complainant. Therefore, the Respondent has registered the disputed domain names by creating a likelihood of confusion with the consumers in order to redirect them to its websites.

The disputed domain names are disabled following the request of suspension to the hoster.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain names.

C. THE DOMAIN NAMES WERE REGISTERED AND ARE BEING USED IN BAD FAITH

The disputed domain names redirect to an online shop who makes reference to the Complainant's trademark.

In the case, the Respondent has intentionally sought to use Complainant's trademark in the disputed domain names to attract Internet users to website and other on-line location for commercial gain by confusing consumers as to sponsorship of the website. This constitutes bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In accordance with the disclaimer, the Respondent is a Complainant's competitor. Therefore, the Complainant contends that the Respondent is a competitor and used the disputed domain names to disrupt Complainant's business by diverting Internet users from Complainant's website to Respondent's website.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain names in bad faith.

RESPONDENT

No administratively compliant Response has been filed.

RIGHTS

To the satisfaction of the Panel, the Complainant has shown that the disputed domain names are identical or confusingly similar to the trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

To the satisfaction of the Panel, the Complainant has shown the Respondent to have no rights or legitimate interests in respect of the disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

To the satisfaction of the Panel, the Complainant has shown the disputed domain names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

Before moving on to the dispute's substance, the Panel must weigh in on a procedural matter.

This procedural matter relates to a request for consolidation by the Complainant of the two Respondents and the corresponding disputed domain names. The WIPO Overview 3.0 in paragraph 4.11.2 sets forth two considerations when determining the consolidation under against multiple respondents, namely, (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. In this matter, the Complainant advances arguments that are persuasive to the Panel. Both Respondents registered the disputed domain names around the same time, with the same Registrar and the same DNS zone. Additionally, both disputed domain names appear to utilize a similar telephone number and the same domain name for its contact emails. Because of the above, the Panel does not believe that consolidating both Respondents and the corresponding disputed domain names under single Complaints upsets the careful equitable balance of this proceeding, while at the same time aiding in its procedural efficiency.

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. Identical or Confusingly Similar

Concerning the initial aspect under the first element, and as per evidence on record, the Panel is satisfied that the Complainant has shown it owns rights in the “GO Sport” trademarks.

The Panel must now turn its attention to assessing the confusing similarity between the disputed domain names and the trademarks. At the outset, the Panel notes that the disputed domain names almost reproduce the trademark “GO Sport” in its totality, except for a couple of differences. In the case of the disputed domain name <GO-SPORT.STORE>, the disputed domain name adds a hyphen between the two components of the trademark, with the utilization of the gTLD “store”. In the case of the disputed domain name <GO-SPORT-FR.COM>, the disputed domain name has the same hyphen between the two components of the trademark plus an additional hyphen and the addition of the letters “FR”, which match the two letters of the ccTLD of France.

In assessing the evidence provided, it is clear that the slight changes in both cases do not dispel a finding of confusing similarity between the disputed domain names and the trademarks. If anything, the additions of the term “FR” and the gTLD “store” enhance the perception of confusing similarity, since the Complainant operates sporting goods stores across various

countries with headquarters in France.

Based on this, the Panel finds the disputed domain names to be confusingly similar to the Complainant's trademarks. As a result, the Panel determines that the Complaint has satisfied the first element set under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Based on the evidence on record, and acknowledging that the Respondent failed to produce allegations or evidence necessary to demonstrate its rights or legitimate interests in the disputed domain names, the uncontested facts indicate that a) the Respondent is not commonly known by the disputed domain names; b) the Respondent is not affiliated with the Complainant; c) it is not authorized to carry out any activity for the Complainant; d) has no business dealings with the Complainant and e) the Respondent has no license or authorization to use the trademarks.

In the view of the Panel, these assertions are enough to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names (see 2.1 of WIPO 3.0 Overview).

The Respondent in failing to respond to the Complainant's contentions has not rebutted the prima facie case, as above-mentioned. Additionally, the Complainant has provided evidence showing that both disputed domain names reproduced the Complainant's trademark and logo. Although this matter will be discussed in the third element, it is enough to show the lack of rights or legitimate interests by the Respondent on the disputed domain names. Finally, in abundance of caution, there is no other available evidence on record that would otherwise allow the Panel to find any rights or legitimate interests for the Respondent in the disputed domain names.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names and therefore the Complainant has fulfilled the second requirement set under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds, as per the evidence on record, that the Respondent was likely aware of the Complainant and targeted the Complainant's trademark when registering the disputed domain names. This conclusion is reinforced by the fact that the Respondent almost reproduced verbatim the trademark, with some slight exceptions as referred to under the first element above-mentioned. Additionally, the Respondent utilized the terms "FR" and "store", respectively, in order to enhance the likelihood of confusion with the Complainant.

Also, it is worth noting that the disputed domain names at one point in time resolved to websites utilizing the trademarks and logo of the Complainant, which lead the Panel to conclude that that the most likely intention of the Respondent about the disputed domain names was to intentionally attempted to attract, for commercial gain, Internet users to its website/Domain Name, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and/or Domain Name (see 3.1 of WIPO 3.0 Overview).

Accordingly, the Panel finds that the Complainant has satisfied the requirements set forth under paragraph 4(a)(iii) of the Policy.

D. Decision

For the preceding reasons and in conformity with the provisions contained under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain names to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **GO-SPORT-FR.COM**: Transferred
2. **GO-SPORT.STORE**: Transferred

PANELLISTS

Name	**Rodolfo Carlos Rivas Rea**

DATE OF PANEL DECISION 2021-02-15

Publish the Decision