

Decision for dispute CAC-UDRP-103880

Case number	CAC-UDRP-103880
Time of filing	2021-06-24 10:11:51
Domain names	discountpandorabracelets.com, pandoracharmbracelet.com, pandorabraceletwithcharms.com, pandorabraceletsuk.com, heartsofpandora.com, buypandorajewelry.com, braceletsalepandora.com, pandoracharmnecklace.com, newpandoracharms.com, newpandorarrings.com, pandorachristmascharms.com, cheappandorabracelets.com, heartsofpandoraring.com, pandoracheapcharm.com, discountpandorajewelryshop.com, offertepandora2020.com, collanepandora.com, negoziopandora.com, braceletpandorableu.com, baguepandoracoeur.com, braceletpandora.com, baguepandorapascher.com, pandorabaguenoeud.com, bijouxpandorabagues.com, baguepandorasoldes.com, baguepandoraprix.com, prixbaguepandora.com, pandorabaguecoeur.com, collierpandorapascher.com, collierpandoracoeur.com, sortijasopandora.com, pulserapandorarosa.com, pulserapandoraplata.com, pulserapandoraoriginal.com, pandoratiendaonline.com, pandorabarato.com, pandoraoriginal.com, pandoraonlineespana.com, pandoraoficial.com, imitacionpandoraplata.com, imitacionpandora.com, comprarpulserapandora.com, comprarpandoraonline.com, complementospulserapandora.com, tiendadepandora.com, pandorarea2020.com, pandoraberlock2020.com, pandorabilligasmycken2020.com, pandorabilliga2020.com, pandorabraciale.com, itgioiellipandora.com, itpandorabracciali.com, itpandoracharm.com, pandoracharmitalia.com, charmpandorait.com, charmpandoragifts.com, pandorasale2020.com, pandoracharms2020.com, ukpandorabracelet2020.com, pandoracheap2020.com, heartsofpandora2020.com, buypandorajewelry2020.com, newpandoracharms2020.com

Case administrator

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

Organization	Pandora A/S
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Complainant representative

Organization	Coöperatieve Vereniging SNB-REACT U.A.
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Respondent

Name	"Dahui" "Wang"
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The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

Complainant states, and provides evidence to support, that it is the owner of certain trademark registrations that consist of or contain the mark PANDORA (the “PANDORA Trademark”), including EU No. 003397858 (registered April 18, 2007) and EU No. 006646491 (registered January 21, 2009).

FACTUAL BACKGROUND

Complainant states that it “designs, manufactures and markets hand-finished and contemporary jewellery”; that its “products have been marketed and sold under the ‘Pandora’ name in more than 100 countries and through more than 7,700 points of sale”; and that its “[t]otal revenue in the 2019 annual report was DKK 21.9 billion (approximately 2.9 billion Euros).”

The disputed domain names were created on or between May 5, 2018, and June 30, 2019, and are being used in connection with websites that each consist of a similar design featuring the PANDORA Trademark prominently at the top and advertising jewellery for sale.

Complainant contends, in relevant part, as follows:

Paragraph 4(a)(i): Complainant states that each of the disputed domain names is confusingly similar to the PANDORA Trademark because (with one exception, <braceletpendora.com>) each contains the PANDORA Trademark in its entirety plus a descriptive or generic word or a date, and the disputed domain name <braceletpendora.com> contains an “altered” version of the PANDORA Trademark that “chang[es] one letter.”

Paragraph 4(a)(ii): Complainant states that Respondent has no rights or legitimate interests in respect of the disputed domain names because, inter alia, “Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name[s] or to use the PANDORA trademark”; and “Respondent has furthermore registered and used the disputed domain name for the purpose passing itself off as being (connected with) the Complainant by prominently featuring the Complainant’s PANDORA mark and the Logo at the top left of every page, of each of its 63 substantially identical websites in connection with the sale of jewelry.”

Paragraph 4(a)(iii): Complainant states that the disputed domain names were registered and are being used in bad faith because, inter alia, “[w]here there is use of the disputed domain name to publish a page that reproduces the look and feel of the Complainant’s official website and where there are reproductions of the Complainant’s logos and trademarks, this constitutes clear evidence that a Respondent has sought to cause confusion on the internet with Complainant’s mark” (internal punctuation and citation omitted); and Respondent’s registration of the 63 disputed domain names indicates “a pattern of conduct.”

PARTIES CONTENTIONS

No administratively compliant response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 UDRP).

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 names (within the meaning of paragraph 4(a)(ii) of the UDRP).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, 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 UDRP).

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.

Complainant states that one of the disputed domain names, <newpandorarrings.com>, is registered to a different registrant (“Pan Jie”) than for the other disputed domain names (“daihui wang”). However, Complainant states that all of the disputed domains are “owned or under the effective control of a single person or entity, or a group of individuals acting in concert, as the other domain names in this Complaint” because <newpandorarrings.com> was registered “less than 2 minutes apart from 2 other domain names included in this UDRP Complaint”; and that all of the disputed domain names were registered at the same registrar and resolve to “substantially identical websites.” Accordingly, Complainant requests consolidation, citing section 4.11.2 of the WIPO Overview, which states:

“Where a complaint is filed against multiple respondents, panels look at whether (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.

“Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants’ identity(ies) including pseudonyms, (ii) the registrants’ contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).”

The Panel accepts Complainant’s request for consolidation.

PRINCIPAL REASONS FOR THE DECISION

Identical or Confusingly Similar: Paragraph 4(a)(i):

Based upon the trademark registrations cited by Complainant, it is apparent that Complainant has rights in and to the PANDORA Trademark.

As to whether the disputed domain name is identical or confusingly similar to the PANDORA Trademark, the relevant comparison to be made is with the second-level portion of each of the disputed domain names only (i.e., “DISCOUNTPANDORABRACELETS,” etc.) because “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.” WIPO Overview of WIPO Overview 3.0, section 1.11.1.

Here, each of the disputed domain names contains the PANDORA Trademark (or a typographical thereof) in its entirety plus a descriptive or generic word or a date. As set forth in section 1.7 of WIPO Overview 3.0, “in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” Section 1.8 of WIPO Overview 3.0 states: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.” And section 1.9 of WIPO Overview 3.0 states: “A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant

mark for purposes of the first element.”

Accordingly, the Panel finds that Complainant has proven the first element of the UDRP.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states that Respondent has no rights or legitimate interests in respect of the disputed domain name because, *inter alia*, “Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name[s] or to use the PANDORA trademark”; and “Respondent has furthermore registered and used the disputed domain name for the purpose passing itself off as being (connected with) the Complainant by prominently featuring the Complainant’s PANDORA mark and the Logo at the top left of every page, of each of its 63 substantially identical websites in connection with the sale of jewelry.”

WIPO Overview 3.0, section 2.1, states: “While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Panel finds that Complainant has established its *prima facie* case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the UDRP.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

Whether a domain name is registered and used in bad faith for purposes of the UDRP may be determined by evaluating four (non-exhaustive) factors set forth in paragraph 4(b) of the UDRP: (i) circumstances indicating that the registrant has registered or the registrant has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant’s documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the registrant’s website or location or of a product or service on the registrant’s website or location.

With respect to paragraph 4(b)(iv) of the UDRP, WIPO Overview 3.0, section 3.1.4 states:

“Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

“Panels have moreover found the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent’s commercial benefit, even if unsuccessful, (iii) the lack of a respondent’s own rights to or legitimate interests in a domain name, (iv) redirecting the domain name to a different respondent-owned website, even where such website contains a disclaimer, (v) redirecting the domain name to the complainant’s (or a competitor’s) website, and (vi) absence of any conceivable good faith use....

“[G]iven that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods or phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith. Similarly, panels have found that a respondent redirecting a domain name to the complainant’s website can establish bad faith insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant.”

Accordingly, the Panel finds that, by using the disputed domain names in connection with websites that each consist of a similar design featuring the PANDORA Trademark prominently at the top and advertising jewellery for sale, without permission from Complainant, bad faith exists under paragraph 4(b)(iv) of the UDRP.

Further, by registering and using the 63 disputed domain names as it has, Respondent has clearly engaged in a pattern of conduct and, accordingly, the Panel finds that bad faith exists under paragraph 4(b)(ii) of the UDRP.

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **DISCOUNTPANDORABRACELETS.COM**: Transferred
2. **PANDORACHARMBRACELET.COM**: Transferred
3. **PANDORABRACELETWITHCHARMS.COM**: Transferred
4. **PANDORABRACELETSUK.COM**: Transferred
5. **HEARTSOFPANDORA.COM**: Transferred
6. **BUYPANDORAJEWELRY.COM**: Transferred
7. **BRACELETSALEPANDORA.COM**: Transferred
8. **PANDORACHARMNECKLACE.COM**: Transferred
9. **NEWPANDORACHARMS.COM**: Transferred
10. **NEWPANDORARINGS.COM**: Transferred
11. **PANDORACHRISTMASCHARMS.COM**: Transferred
12. **CHEAPPANDORABRACELETS.COM**: Transferred
13. **HEARTSOFPANDORARING.COM**: Transferred
14. **PANDORACHEAPCHARM.COM**: Transferred
15. **DISCOUNTPANDORAJEWELRYSHOP.COM**: Transferred
16. **OFFERTEPANDORA2020.COM**: Transferred
17. **COLLANEPANDORA.COM**: Transferred
18. **NEGOZIPANDORA.COM**: Transferred
19. **BRACELETPANDORABLEU.COM**: Transferred
20. **BAGUEPANDORACOEUR.COM**: Transferred
21. **BRACELETPENDORA.COM**: Transferred
22. **BAGUEPANDORAPASCHER.COM**: Transferred
23. **PANDORABAGUENOEUD.COM**: Transferred
24. **BIJOUXPANDORABAGUES.COM**: Transferred
25. **BAGUEPANDORASOLDES.COM**: Transferred
26. **BAGUEPANDORAPRIX.COM**: Transferred
27. **PRIXBAGUEPANDORA.COM**: Transferred
28. **PANDORABAGUECOEUR.COM**: Transferred
29. **COLLIERPANDORAPASCHER.COM**: Transferred
30. **COLLIERPANDORACOEUR.COM**: Transferred
31. **SORTIJASPANDORA.COM**: Transferred
32. **PULSERAPANDORAROSA.COM**: Transferred
33. **PULSERAPANDORAPLATA.COM**: Transferred
34. **PULSERAPANDORAORIGINAL.COM**: Transferred
35. **PANDORATIENDAONLINE.COM**: Transferred

36. **PANDORABARATO.COM**: Transferred
37. **PANDORAORIGINAL.COM**: Transferred
38. **PANDORAONLINEESPANA.COM**: Transferred
39. **PANDORAOFICIAL.COM**: Transferred
40. **IMITACIONPANDORAPLATA.COM**: Transferred
41. **IMITACIONPANDORA.COM**: Transferred
42. **COMPRARPULSERAPANDORA.COM**: Transferred
43. **COMPRARPANDORAONLINE.COM**: Transferred
44. **COMPLEMENTOSPULSERAPANDORA.COM**: Transferred
45. **TIENDADEPANDORA.COM**: Transferred
46. **PANDORAREA2020.COM**: Transferred
47. **PANDORABERLOCK2020.COM**: Transferred
48. **PANDORABILLIGASMYCKEN2020.COM**: Transferred
49. **PANDORABILLIGA2020.COM**: Transferred
50. **PANDORABRACCIALE.COM**: Transferred
51. **ITGIOIELLIPANDORA.COM**: Transferred
52. **ITPANDORABRACCIALI.COM**: Transferred
53. **ITPANDORACHARM.COM**: Transferred
54. **PANDORACHARMITALIA.COM**: Transferred
55. **CHARMPANDORAIT.COM**: Transferred
56. **CHARMPANDORAGIFTS.COM**: Transferred
57. **PANDORASALE2020.COM**: Transferred
58. **PANDORACHARMS2020.COM**: Transferred
59. **UKPANDORABRACELET2020.COM**: Transferred
60. **PANDORACHEAP2020.COM**: Transferred
61. **HEARTSOFPANDORA2020.COM**: Transferred
62. **BUYPANDORAJEWELRY2020.COM**: Transferred
63. **NEWPANDORACHARMS2020.COM**: Transferred

PANELLISTS

Name	Douglas M. Isenberg
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DATE OF PANEL DECISION	2021-08-03
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Publish the Decision
