

## Decision for dispute CAC-UDRP-103933

Case number	CAC-UDRP-103933
Time of filing	2021-07-27 08:28:17
Domain names	cosmoprofebeauty.com

### Case administrator

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

Organization	BolognaFiere Cosmoprof S.p.A.
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### Complainant representative

Name	Niccolò Ferretti
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### Respondent

Organization	Fundacion Comercio Electronico
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#### OTHER LEGAL PROCEEDINGS

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

#### IDENTIFICATION OF RIGHTS

The Complainant is the licensee of several trademark registrations for the sign "Cosmoprof", including the following ones:

- International Trademark Registrations "Cosmoprof" (e.g. No. 0981689, registered on July 24, 2008, and No. 1574658, registered on September 9, 2020);
- European Union Trademark Registrations "Cosmoprof", (e.g. No. 001050483, registered on January 12, 2001; as well as EU TM No. 001323831, "Cosmoprof hair fashion", registered on November 30, 2000, and No. 002392504, "Cosmoprof", registered on July 7, 2009);
- Italian Trademark Registrations "Cosmoprof", registered since at least 1998 (e.g. No. 302005901352630, registered on November 11, 2008, No. 302005901291117, registered on November 7, 2008, No. 301995900469408, registered on May 27, 1998), among many others.

#### FACTUAL BACKGROUND

The Complainant is BolognaFiere Cosmoprof S.p.A., an Italian company, part of the Group Fiere Internazionali di Bologna S.p.A. - Bolognafiere or, in abbreviated form, Bolognafiere S.p.A.

In more than 50 years of history, the Complainant has built a standing reputation based on its expertise and the high level of services offered, by also being able to evolve and innovate over time, looking ahead to the future and investing toward the continuous improvement of the events organized.

Cosmoprof by BolognaFiere Cosmoprof is an important trade fair worldwide, encompassing all the core players of the beauty industry, from raw materials to finished products. Over the course of the 50 years, "Cosmoprof" has become a worldwide well-known trademark in its field, with unmissable events for operators in the cosmetics sector, establishing their presence on the market and intercepting new market trends.

The Complainant is also very present online also through the popular social medias: LinkedIn, YouTube, Facebook and Instagram, and has registered many domain names, comprising the trademark "Cosmoprof", under several different TLDs. The website <https://www.cosmoprof.com/> is the official website of the Complainant.

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVE RESPONSE HAS BEEN FILED BY THE RESPONDENT.

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#### 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).

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#### 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).

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#### 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).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

#### A. Identical or Confusingly Similar

The Complainant has submitted numerous evidence of trademark registrations for the COSMOPROF trademark in different regions (international, EU, etc), and thus the Panel finds that the Complainant has rights in that mark for the purposes of Policy paragraph 4(a)(i).

The disputed domain name contains in full the Complainant's COSMOPROF trademark in its entirety, including the typo "e" and the generic term "beauty", which is merely a descriptive term of the Complainant's business and services in the beauty & cosmetic world.

Numerous UDRP panels have agreed that adding descriptive words to a trademark, does not make a domain name any less "identical or confusingly similar" for purposes of satisfying this first requirement of paragraph 4(a)(i) of the Policy. See, for example, General Electric Company v. Recruiters, WIPO Case No. D2007-0584 (transferring <ge-recruiting.com>); Microsoft Corporation v. Step-Web, WIPO Case No. D2000-1500 (transferring <microsofthome.com>).

The Panel finds that 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).

#### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out illustrative circumstances as examples which, if established by the respondent, shall demonstrate its rights to or legitimate interests in the domain name for purposes of paragraph 4(a)(ii) of the Policy.

The Panel notes the Complainant's statements that the Respondent has never sought authorisation or license from the Complainant to use its mark, and that there is no evidence that the Respondent is commonly known as the disputed domain name.

The Respondent has not replied to the Complainant's contentions that it has no rights or legitimate interests in the disputed domain name. As per its use, the disputed domain name does not hold an active website, which does not constitute use in connection with a bona fide offering of goods or services or for legitimate noncommercial or fair use purposes.

The Panel agrees with the Complainant's provided prima facie statements, and finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

#### C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent.

The Panel finds that the disputed domain name was registered more than three months ago and it is not been used by the Respondent. Taking into account that the Complainant is an internationally well-known brand in the beauty industry, it is unlikely that the Respondent had just selected the name for the disputed domain name by mere chance (especially by combining the Complainant's well-known trademark with the descriptive term "beauty").

According to the Complainant, the Respondent is "passively holding" the disputed domain name, leading to a finding of bad faith. In this regard, factors that have been considered relevant in applying the passive holding doctrine, include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details, and (iii) the implausibility of any good faith use to which the domain name may be put. Giving close attention to all circumstances of the Respondent's behaviour here, the Panel agrees with the Complainant that the above are indicators of a passive holding in the present case.

Moreover, the Panel notes that the Respondent has been involved in previous UDRP cases and been described as a cybersquatter who has registered numerous domain names incorporating well-known trademarks (see as a way of example: Skyscanner Limited v. Registration Private, Domains By Proxy, LLC/Fundacion Comercio Electronico, WIPO Case No. D2020-

0018; Serena & Lily, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico

The Panel finds that 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).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. COSMOPROFEBEAUTY.COM: Transferred

## PANELLISTS

Name	Laura Martin-Gamero Schmidt
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DATE OF PANEL DECISION 2021-09-07

Publish the Decision