

Decision for dispute CAC-UDRP-103977

Case number	CAC-UDRP-103977
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Time of filing	2021-10-04 09:19:23
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Domain names	chianticlassico.org
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Case administrator

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

Organization	Consorzio Vino Chianti Classico
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Complainant representative

Organization	Convey srl
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Respondent

Organization	Paolo Melacci
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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 owns several trademark registrations across various jurisdictions, inter alia the international trademark No. 877636 "CHIANTI CLASSICO", registered on December 21, 2005 and the Italian trademark No. 0001614370 "CHIANTI CLASSICO", registered on November 13, 2014 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is an Italian association since 1987 which regulates and protects the wine produced in the Chianti Classico region.

The Complainant provides information on its services online inter alia at <www.chianticlassico.com>.

The disputed domain name <chianticlassico.org> was registered on October 6, 2020 and is not used in connection with an active website.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent is not commonly known by the disputed domain name, that it is not affiliated with nor authorized by the Complainant in any way, that the Complainant does not carry out any activity for, nor has any business with the Respondent, and that neither license nor authorization has been granted to the Respondent to make any use of the Trademark or apply for registration of the disputed domain name by the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It contends that the Respondent must have been aware of the Complainant and its well-known Trademark at the time of registration of the disputed domain name and that the Respondent's passive holding of the disputed domain name is evidence of bad faith.

RESPONDENT:

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

According to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (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.

1. The Panel accepts that the disputed domain name is identical to the Trademark as it fully incorporates it. Furthermore, the top-level-domain ".org" is viewed as a standard registration requirement and as such is disregarded under the first element test.
2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

3.1 The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is highly distinctive and well-established.

3.2 Furthermore, the Panel accepts the Complainant's contentions that the disputed domain name has been used in bad faith under the principles of passive holding. It is the consensus view that the lack of active use of a domain name does not as such prevent a finding of bad faith under the Policy. In such cases, the panel must examine all the circumstances of the case to determine whether a respondent is acting in bad faith. Examples of circumstances that can indicate bad faith include a complainant having a well-known trademark, no response to the complaint, respondent's concealment of identity and the impossibility of conceiving a good faith use of the domain name (cf *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003; *Jupiters Limited v. Aaron Hall*, WIPO Case No. D2000-0574; *Ladbroke Group Plc v. Sonoma International LDC*, WIPO Case No. D2002-0131). Moreover, the Panel observes the presence of the following additional factor that support the finding of bad faith in the use of the disputed domain name in this case: lack of response to the cease and desist letter sent by the Complainant is further evidence of bad faith, given all the circumstances of the case (see e.g., *Altarea v. Loretta Zayas*, WIPO Case No. D2020-2337).

The Panel is convinced that the Trademark is highly distinctive and well-established and that the Respondent failed to file a Response and therefore did not provide evidence of any actual or contemplated good faith use of the disputed domain name. Consequently, in the view of the Panel, the facts of this case do not allow for any plausible actual or contemplated active use of the disputed domain name by the Respondent in good faith. The Panel is therefore convinced that, even though the disputed domain name has not yet been actively used, the Respondent's non-use of the disputed domain name equals to use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CHIANTICLASSICO.ORG**: Transferred

PANELLISTS

Name	Stefania-Despoina Efstathiou, LL.M. mult.
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DATE OF PANEL DECISION	2021-10-29
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Publish the Decision