Decision for dispute CAC-UDRP-100875

Case number	CAC-UDRP-100875
Time of filing	2015-08-04 12:31:35
Domain names	buymoncler.net

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Moncler S.p.A.

Complainant representative

Organization	Barzanò & Zanardo Roma S.p.A.

Respondent

Name	Fahad Munir

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided between the same parties and relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks “MONCLER” (for instance: International registration No. 978819 “MONCLER”, of 25 June 2007, designating several countries including China and Iran, for goods in classes 9, 14, 16, 18, 22, 24, 25, 28). It uses the domain name “www.moncler.com” which is connected to the Complainant's official website.

FACTUAL BACKGROUND

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

The Complainant is one of the leading companies in the field of fashion sportswear. The Complainant owns more than 500 national, Community and international trademarks in more than 100 jurisdictions and comprising the term MONCLER, the first of which dates back to 1963. Previous Panellists in other UDRP procedures have considered the MONCLER trademark as a trademark enjoying reputation (e.g., Moncler S.r.l. v. Daniel Park, Caso OMPI n. D2011-0488; Moncler S.r.l. v. Silin Trade, Caso OMPI n. D2011-0511; Moncler S.p.A. v. Bestinfo, Caso OMPI n. D2004-1049, etc.). The Complainant also owns over 1000 domain names comprising the MONCLER trademark under all different TLDs and is present on several social networks, such as Facebook, Twitter, YouTube, etc.

The domain name <buymoncler.net> was registered on 24 June 2015, therefore after the date of application and registration of the Complainant's trademarks listed above. Furthermore, the disputed domain redirects to a Sedo parking page with pay-per-click links. The Respondent approached the Complainant 6 days after the disputed domain name was registered, i.e., on 30 June 2015 to propose the purchase of the disputed domain name to the Complainant. Since the Complainant did not reply to the Respondent, the disputed domain name is now offered for sale to the general public on Sedo.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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

The Panel finds that the disputed domain name “buymoncler.net” is confusingly similar to the Complainant’s trademark, as it consists of the trademark MONCLER preceded by the generic term "buy" that is likely to increase the possibility of confusion amongst consumers.

The Panel notes that the disputed domain name redirects to a Sedo parking page with pay-per-click links. The Panel is of the view that the Domain Name was registered by the Respondent with the intention to obtain financial advantage from the similarity between the Domain Name and the name that the Complainant uses for its business. The Respondent makes profit from the pay-per-click links and takes undue advantage from the reputation of the MONCLER trademark. In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of “buymoncler.net”.

The Respondent has intentionally registered the disputed domain name which totally reproduces the Complainant’s trademark MONCLER. By the time the disputed domain name was registered, it is unlikely that Respondent did not have knowledge of the Complainant’s rights on the trademark MONCLER. The Complainant also proved that the Respondent is using the disputed domain name to lead to a parking page containing pay-per-click links that generate a profit to the Respondent. These facts, including the fact that the disputed domain name is now offered for sale to the general public on Sedo, also confirm that the domain name is used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location, or of a product or service on the Respondent's web site or location. In the light of the above, the Panel finds that the disputed domain name has also been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BUYMONCLER.NET**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2015-09-07

Publish the Decision