

Decision for dispute CAC-UDRP-104400

Case number	CAC-UDRP-104400
Time of filing	2022-03-07 09:10:33
Domain names	golasingapore.com, golashoescanada.com, goladeutschland.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	D. Jacobson & Sons Limited
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Complainant representative

Organization	TLT LLP
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Respondent

Organization	Web Commerce Communications Limited
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks bearing the word element "GOLA", such as:

- UK Trademark no. 00001097140 – "GOLA" – Nice Classification: 18 - Date of reg. June 14, 1978;
- UK Trademark no. 00000272980 – "GOLA" – Nice Classification: 25 - Date of reg. May 22, 1905;
- EU Trademark no. 001909936 – "GOLA" – Nice Classification: 18, 25, 28 - Date of reg. October 4, 2000;
- EU Trademark no. 003399681 "GOLA" – Nice Classification: 5, 10, 12, 35 – Date of reg. October 8, 2003; and
- EU Trademark no. 011567625 "GOLA" (stylised) – Nice Classification: 18, 25, 35 – Date of reg. February 12, 2013.

Furthermore, the Complainant is the owner of several domain names, bearing the word element "GOLA", such as <gola.co.uk> and <golausa.com>, which were registered on December 17, 1997 and February 13, 2002.

FACTUAL BACKGROUND

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

The Complainant is a UK based designer, importer, seller and exporter of ladies', men's and children's footwear. In particular, the Complainant owns the internationally famous "GOLA" brand, which it has very successfully applied (amongst other things) to its range of footwear and bag designs. The Complainant's footwear and bag products are sold throughout the world, including through its various websites registered under domain names such as <gola.co.uk> and <golausa.com>. Customers in the UK, EU and US are able to purchase the Complainant's products through Gola domain names.

The Complainant has over many years and throughout the world sold hundreds of thousands of pairs of footwear and bags under its Gola trademarks. The Gola trademarks appear on the Complainant's products and advertising and promotional material, including the Gola websites.

The disputed domain name <golasingapore.com> has been registered by the Respondent on August 11, 2021. The disputed domain name <golashoescanada.com> has been registered by the Respondent on October 22, 2021. And the disputed domain name <goladeutschland.com> has been registered by the Respondent on January 10, 2022. The disputed domain names are not connected with or authorized by the Complainant in any way.

The Complainant believes that the infringing domain names follow a similar modus operandi as two complaints already brought by the Complainant (case numbers 104197 and 104314) relating to 6 domains all registered by the same Respondent. Already in case 104197, the complainant used the infringing domain with fraudulent intent to obtain personal and financial information of the complainant's customers.

The Respondent's accessible domain names point to websites that contain content from the Complainant's website and highlight the "Gola" trademarks at the top of all pages of the (accessible) websites and in product advertising on the home pages and other pages of the websites. The websites are used to offer GOLA branded footwear and bags. They suggest that there is a commercial relationship between the Complainant and the websites associated with the disputed domain names, when this is not the case. The disputed domain names are likely to mislead relevant members of the public, who attempt to purchase products via the disputed domain names, into believing that they are doing so from the Complainant's genuine website or from a website that is in some way connected to or associated with the Complainant, contrary to the fact.

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 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 names (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 names have been registered and are 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

As the Respondent did not file an administratively compliant Response, pursuant to paragraph 14(b) of the Rules, the Panel may draw such inferences therefrom as it considers appropriate. Thus, the Panel considers the contentions of the Complainant

as conceded by the Respondent.

A. The disputed domain names are confusingly similar to the Gola trademarks of the Complainant.

The Complainant has, to the satisfaction of the Panel, shown that it has valid trademarks rights in the term "GOLA".

The Panel finds that the disputed domain names are confusingly similar to the Complainant's GOLA trademarks. All three disputed domain names contain the Complainant's GOLA trademark in its entirety, together with the name of a country and, in one case, the suffix "shoes". Neither the geographical designations nor the addition of "shoes" change the fact that the Complainant's GOLA trademarks, as the first and dominant component, is fully recognisable therein on a simple side-by-side comparison. This is in particular the case since the focus of the GOLA brand is on the sale of footwear. The addition of the word "shoes" therefore constitutes a purely descriptive addition, which does not change the fact that the GOLA brand is fully recognisable.

B. The Respondent has no rights or legitimate interests in respect of the disputed domain names within the meaning of the Policy.

The Respondent is not known by the disputed domain names. The Panel notes that there is no commercial relationship between the Parties, that the Complainant has not authorized the Respondent to use its trademarks in the disputed domain names and on the associated websites, and that the content set out on the websites operated under the disputed domain names replicate the Complainant's own website material without permission, evidencing this with a side by side screenshot comparison. No legitimate interest of the Respondent in the disputed domain names is evident nor indicated. None of the alternatives of 4(c) of the Policy applies. The Complainant assumes that the Respondent merely wants to obtain personal data from the Complainant's customers, without providing any further information. By copying the website content of the Complainant, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its web sites, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its web site. This is completely opposite to a bona fide offering of goods and services not does it indicate a legitimate non-commercial or fair use of the disputed domain names.

Based on the considerations set out above, in accordance with paragraph 4(c)(iii) of the Policy, the Panel is satisfied that the Respondent has no rights and legitimate interests in the disputed domain names.

C. The disputed domain names have been registered and are being used in bad faith within the meaning of the Policy.

The Complainant's trademarks "GOLA" are widely known. Given the distinctiveness of the Complainant's trademarks and reputation, it can be concluded that the Respondent has registered the disputed domain names with full knowledge of the Complainant's trademarks.

The Complainant has argued, without contradiction, that the websites associated with the disputed domain names have been set up to mirror the Complainant's genuine websites and that they contain content copied from the Complainant's websites. The said websites and the disputed domain names prominently use the Complainant's GOLA trademark and a very similar structure and design to the Complainant's website. Under these circumstances, the Respondent could only have registered the disputed domain names with full knowledge of the Complainant's trademark.

Due to the very high similarity of the Respondent's websites to the Complainant's websites, there is a high probability that internet users will assume that the websites in question are the Complainant's websites or websites associated with the Complainant.

Registration in bad faith is specifically presumed under paragraph 4(b)(iv) of the policy if the use of the domain name has been deliberately intended to attract Internet users to a website for commercial gain by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the website or a product on the website. The Complainant has stated convincingly that there are no business relations or other connections between the Complainant

and the Respondent. Accordingly, there is a high likelihood that internet users will be misled about the origin, sponsorship, affiliation or endorsement of the website or a product on the website.

Based on these considerations, the Panel is satisfied that the Respondent registered the three disputed domain names in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **GOLASINGAPORE.COM**: Transferred
- 2. **GOLASHOESCANADA.COM**: Transferred
- 3. **GOLADEUTSCHLAND.COM**: Transferred

PANELLISTS

Name	Dominik Eickemeier
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DATE OF PANEL DECISION	2022-04-11
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Publish the Decision