

Decision for dispute CAC-UDRP-104474

Case number	CAC-UDRP-104474
Time of filing	2022-04-05 09:04:58
Domain names	chianticlassicocollection.com

Case administrator

Organization	Denisa Bilík (CAC) (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

Name	wen qiong tang
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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 owner of various trademark registrations such as:

- Italian Trademark no. 2013902136159 – “CHIANTI” – Classes: 3, 8, 9, 14, 18, 20, 21, 24, 25, 28, 30, 32, 41 and 43;
- Italian Trademark no. 0001614370 – “CHIANTI CLASSICO” – Classes: 3, 8, 9, 14, 18, 20, 21, 24, 25, 28, 30, 32, 41 and 43;
- International Trademark no. 877636 – “CHIANTI CLASSICO” – Class: 33;
- International Trademark no. 1183136 – “CHIANTI CLASSICO DAL 1716” – Class: 33;
- European Union Trademark no. 0902976 – “CHIANTI CLASSICO DAL 1716” – Class: 33; and
- European Union Trademark no. 002258903 – “CONSORZIO DEL MARCHIO STORICO CHIANTI CLASSICO” – Classes: 3, 8, 14, 16, 18, 20, 21, 24, 25 and 28.

FACTUAL BACKGROUND

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

The Complainant, Consorzio Vino Chianti Classico, has been established in 1987 to regulate and protect the wine produced

in the Chianti Classico region, also known as the Black Rooster for the historical symbol of the Chianti League.

The Chianti Classico region is the first wine production area in the world to be defined by law, with an edict in 1716 in which the boundaries of the Chianti were officially recognized by the Grand Duke of Tuscany Cosimo III. This announcement specified the boundaries of the geographical area of Chianti as an area of production of a fine wine and established a congregation to supervise the production, shipping, control against fraud and trade of wines (a sort of progenitor of the current Consortia Vino Chianti Classico).

In 1924, a group of 33 wine producers gather in Radda, Chianti and gave birth to the first Association for the defense of Chianti wine, this association can be deemed the birth of the current consortium. The 33 members chose the Gallo Nero—black rooster— as their symbol, which is the historical symbol of the Military League of Chianti.

In 1932, a Cabinet order definitely regulated the production area of Chianti, dividing it into 8 zones: Classico, Rufina, Colli Aretini, Colli Fiorentini, Colli Pisani, Colli Pistoiesi, Colli Senesi, Chianti Montalbano. Therefore, the adjective “Classico” is added by ministerial decree to distinguish the original Chianti from the wine made outside the territory delimited in 1716.

From 1924 to 1967, the Consortium endured long legal battles in order to obtain exclusive recognition, making the wines from the Chianti region distinguishable from other Tuscan wines. In 1967, Chianti entered into the well-respected DOC—Denominazione di Origine Controllata—in which the "Classico" was governed as a more selective wine. Today the Chianti Classico DOCG follows its own rules of production spread over approximately 900 km², distinct from that of Chianti DOCG, and including the entire Castellina in Chianti, Gaiole in Chianti, Greve in Chianti and Radda in Chianti local council areas, part of the Barberino Val d'Elsa, Castelnuovo Berardenga, Poggibonsi, San Casciano in Val di Pesa and Tavarnelle Val di Pesa districts. With 566 members, of whom approximately 371 are bottlers, the Chianti Classico Wine Consortium now represents 96% of the entire denomination and has up-to-date, well-structured and professional organization in charge of the mission for which it was created: protecting and valorizing Chianti Classico wine and its trademark.

Currently, the Chianti Classico is offered in three simple different types that represent the qualitative ascending pyramid of the companies: Chianti Classico (basic version), Chianti Classico Riserva (with prolonged aging) and Chianti Classico Gran Selezione (which represents the top of the best Chianti Classico, produced with the best grapes of the wineries. In 2019, the Chianti Classico has been exported to more than 130 countries: 34% in U.S.A. and 10% in Canada.

The Complainant is also the main sponsor of the Chianti Classico Marathon taking place in October in the Chianti's area.

Furthermore, the Complainant has been extensively using the “CHIANTI CLASSICO” denomination on all internet environments including and not limited to the company's official website <https://www.chianticlassico.com> and its official accounts on the major social networks such as Facebook, Instagram, YouTube and Twitter.

The Registration Date of the disputed domain name is March 24, 2021.

The Respondent has not submitted an official response within the required period of time.

PARTIES CONTENTIONS

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).

Complainant asserts rights in the CHIANTI CLASSICO mark based upon the international registrations. Registration of a mark with the Italian Patents and Trademarks Office is a valid showing of rights in a mark. See Avast Software s. r. o. v Milen Radumilo, 102384, (CAC 2019-03-12). The Panel finds that the Complainant has rights in the CHIANTI CLASSICO mark under

paragraph 4(a)(i) of the Policy.

Complainant argues the disputed domain name incorporates the whole of the Complainant's trademark CHIANTI CLASSICO and the generic term "collection". CHIANTI CLASSICO is an invented sign describing a kind of wine. The addition of the generic term "collection" and the addition of a gTLD fails to sufficiently distinguish a disputed domain name from a mark per Policy paragraph 4(a)(i). See TOD'S S.p.A. vs. shikai qiang, 104283, (CAC 2022-02-19). The Panel accepts that the disputed domain name is confusingly similar to Complainant's CHIANTI CLASSICO trademark.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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). More specifically, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

First, the Complainant contends that the Respondent is not a licensee, authorized agent of the Complainant or in any other way authorized to use Complainant's trademarks. Specifically, the Respondent is not an authorized reseller of the Complainant and has not been authorized to register and use the disputed domain name. Upon information and belief, the Respondent is not commonly known by the disputed domain name as individuals, business or other organization and their family names do not correspond to CHIANTI CLASSICO or the disputed domain name.

Second, the Complainant further contends that the Respondent has not provided the Complainant with any evidence of its use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services before any notice of the dispute. For the time being, the disputed domain name is not resolving to an active website, therefore, there is no actual evidence that the Respondent is making a bona fide offering of goods or services or a legitimate non-commercial or fair use of the disputed domain name.

The Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The burden of proof has been shifted to the Respondent to prove that it has right or legitimate interests to the disputed domain name. However, the Respondent has not submitted any response to rebut the assertion.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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).

Registration of the disputed domain name in bad faith

The Complainant claims that the Respondent very likely knew the Complainant and its trademark when it registered the disputed domain name considering the distinctiveness and global reputation of the CHIANTI CLASSICO trademark. Furthermore, the disputed domain name is identical to the event CHIANTI CLASSICO COLLECTION dedicated to CHIANTI vintages, organized by the Complainant each year and held in 2021 in six cities worldwide: Florence (20-24 May); Chicago, New York, London (20-21 May), Munich (22-23 June); Tokyo (30 June). Pursuant to paragraph 3.1.4 of the WIPO Overview 3.0 which states that "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." Considering the distinctiveness of the CHIANTI CLASSICO trademark and its reputation, the Panel agrees that the disputed domain name was registered in bad faith.

Use of the disputed domain name in bad faith

The Complainant claims that the disputed domain name does not resolve to any active content before and after the cease and desist letter was served, and Respondent did not respond to the letter. Currently, the disputed domain name continuously redirects to a website informing the internet users that the disputed domain name has not been renewed. Pursuant to paragraph 3.3 of the WIPO Overview 3.0 which provides that "from the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding." The Panel agrees that passive holding of a domain name incorporating a famous trademark constitutes use of the domain name in bad faith, and the ignorance of the previous notice further evince the use of the disputed domain name in bad faith.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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.

PRELIMINARY FINDINGS - LANGUAGE OF PROCEEDING:

The Panel notes that the language of the Registration Agreement is Chinese as confirmed by the Registrar, Cloud Yuqu LLC. The official Complaint was submitted in English and no response has been received within the required period. Pursuant to paragraph 11 of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Complainant requests to use English as the language of proceeding, with the arguments that the disputed domain name contains Latin characters. English is the primary language for business and international relations. It would be disproportionate to require the Complainant to submit the Complaint in Chinese, as this would result in additional expense and unnecessary delay for the Complainants for translation. The Respondent has not declined to use English as the language of proceeding of the current case.

The Panel is bilingual and is well equipped to deal with the proceeding in both Chinese and English. Having considered the circumstances, Panel believes that it would be fair to both parties to use English as the language of proceeding and it can also uphold the principle of UDRP being a swift dispute resolution process. On this basis, the Panel determines that the language requirement has been satisfied through the English language Complaint and proper bilingual notices served by CAC, and decides that the language of proceeding to be English.

PRINCIPAL REASONS FOR THE DECISION

Having established all three elements required under the UDRP Policy, the Panel concludes that relief shall be granted.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. CHIANTICLASSICOCOLLECTION.COM: Transferred
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PANELLISTS

Name **Mr Paddy TAM**

DATE OF PANEL DECISION **2022-04-30**

Publish the Decision
