

Decision for dispute CAC-UDRP-104865

Case number	CAC-UDRP-104865
Time of filing	2022-09-21 09:31:42
Domain names	altareawholesale.com

Case administrator

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

Organization	ALTAREA
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	Altarea Ammari
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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

Founded in 1994, ALTAREA is a property developer in France and runs a platform covering all classes of real estate assets (residential, retail, offices, logistics, hotels, serviced residences, etc.).

The disputed domain name <altareawholesale.com> was registered on 30 August 2022. The language of the registration agreement is English.

FACTUAL BACKGROUND

It results from the documents provided that the Complainant is - amongst others - the owner of the European Union Trademark ALTAREA n°001148246 (verbal) registered on 8 November 2000 for services in classes 35, 36, 37 and 42.

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).

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

1.

The Panel finds that the disputed domain name <altareawholesale.com> is confusingly similar to the Complainant's trademark <ALTAREA>, since it contains said trademark identically, placed at the beginning of the disputed domain name and combined with the generic term "wholesale" which is descriptive and therefore likely to increase the risk of confusion amongst consumers.

2.

In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular and despite the first name used by the Respondent (which corresponds to the Complainant's trademark), the Respondent is not affiliated with, nor authorized by the Complainant in any way, and it is not related in any way to the Complainant's business.

In addition, the Respondent is not commonly known by the disputed domain name pursuant to paragraph 4(c)(ii) of the Policy.

Finally, no content is displayed on the website to which the disputed domain name resolves. Such use can neither be considered a bona fide offering of goods or services nor a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

3.

Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

In the absence of any Response or other information, the Panel is convinced that by the time the disputed domain name was registered, the Respondent had positive knowledge of the Complainant's rights on its trademark. It is therefore the view of this Panel that the Respondent has intentionally registered the disputed domain name because it identically contains the Complainant's trademark.

In addition, the Panel considers that the fact that the disputed domain name resolves to an inactive webpage does not prevent a finding of bad faith. In this regard, this Panel shares the view expressed at point 3.3. in the WIPO Jurisprudential Overview 3.0: "From the inception of the UDRP, panellists 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. While panellists will look at the totality of the circumstances in each case, 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 (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put". In the case at hand, the Panel takes into consideration not only (1) the distinctiveness of the Complainant's trademark, but also (2) the clear absence of rights or legitimate interests coupled with no response to the Complaint with conceivable or credible explanations of the Respondent's conduct, and (3) the implausibility of any good faith uses to which the disputed domain name may be put.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **altareawholesale.com**: Transferred

PANELLISTS

Name	Tobias Malte Müller
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DATE OF PANEL DECISION **2022-10-26**

Publish the Decision
