

Decision for dispute CAC-UDRP-105104

Case number	CAC-UDRP-105104
Time of filing	2022-12-29 10:09:48
Domain names	NARACAMICIESHOP.COM

Case administrator

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

Organization	Passaggio Obbligato S.p.A.
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Complainant representative

Organization	Perani Pozzi Associati
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Respondent

Name	Philippe Veronesi
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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 relies on the following rights:

- International Trademark No. 503785 for the word mark NARA CAMICEEEE registered on 5 June 1986 in class 25;
- EU Trademark No. 003372349 for the word mark NARA CAMICEE registered on 22 February 2005 in class 25; and
- International Trademark No. 910024 for a logo comprising NARACAMICIE in stylised form registered on 31 May 2006 in classes 25, 35 and 42.

FACTUAL BACKGROUND

The Complainant commenced a business in 1986 of producing shirts exclusively for the NaraCamicie store in Milan. It now has a network of 380 NaraCamicie outlets around the world selling 1800 different garments including shirts, suits, knitwear, jackets and trousers.

The Complainant owns the registered trademarks set out above.

The Respondent registered the disputed domain name, naracamicieshop.com, on 8 December 2013 without the consent of the Complainant.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

No administratively compliant Response has been filed.

RIGHTS

The Panel finds that the Complainant has registered rights in the marks identified above.

The disputed domain name comprises immaterial variants of these marks together with the generic term "shop" and the generic top level domain suffix. The Panel finds that it is confusingly similar to these marks.

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 Panel finds on the Complainant's undisputed evidence that the Respondent has not made any use of the disputed domain name for a bona fide offering of goods or services prior to the complaint or for any fair or legitimate non-commercial purpose. It is also evident that the Respondent is not commonly known by the disputed domain name or any corresponding name, and the Complainant has confirmed that it has not authorised the Respondent to use the disputed domain name. There does not appear to be any other basis on which the Respondent could have acquired any right or legitimate interest in the domain name.

In these circumstances, 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 Panel considers that the disputed domain name could not be used in good faith except to refer to the Complainant or its business or goods, and only then if the Complainant consented or if the Respondent made it clear that he was not an authorised reseller of the Complainant's goods. The Panel further finds on the unchallenged evidence that the Respondent has not used the disputed domain to refer to the Complainant or its business or goods with its consent or making it clear that he was not an authorised reseller. In these circumstances, the Panel infers that the disputed domain name was registered and is being used in bad faith.

Accordingly, 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

Disputed domain comprises immaterial variant of Complainant's registered marks together with generic word and gTLD suffix. Complainant's evidence of no bona fide use was unchallenged.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. NARACAMICIESHOP.COM: Transferred
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PANELLISTS

Name	Jonathan Turner
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DATE OF PANEL DECISION 2023-02-07

Publish the Decision
