

Decision for dispute CAC-UDRP-104798

Case number	CAC-UDRP-104798
Time of filing	2022-08-19 09:30:54
Domain names	continentaltrucktires.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
--------------	--

Complainant

Organization	Continental Reifen Deutschland GmbH
--------------	--

Complainant representative

Organization	Grünecker Patent und Rechtsanwälte PartG mbB
--------------	---

Respondent

Name	MICHAEL ALEX
------	---------------------

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 inter alia the owner of:

Thai trademark CONTINENTAL reg. no 120199 registered on September 18, 2000;

Thai trademark CONTINENTAL (and device) reg. no 171105362 registered on February 21, 2017;

Thai trademark CONTILIFECYCLE reg. no 36669 registered on September 9, 2008;

Thai trademark CONTITREAD reg. no 302434 registered on August 19, 2009.

FACTUAL BACKGROUND

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

The Complainant is a subsidiary of Continental AG, a German multinational listed automotive supplier and one of the leading

automotive manufacturing companies in the world. In particular, the Complainant as well as Continental AG and their further subsidiaries sell tires for automobiles, motorcycles, and bicycles worldwide under the Continental brand.

In Thailand, the Complainant opened a subsidiary, Continental Tyres (Thailand) Co., Ltd., in 2019.

The Complainant has proven to be the owner of the CONTINENTAL mark.

The disputed domain name was registered on November 12, 2020 and resolves to a website where tires for vehicles are apparently sold by a company named ZS & N Continental Tyres Co., Ltd.

The Complainant's trademarks predate the registration of the disputed domain name.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to its CONTINENTAL trademarks, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

The Complainant, amongst other arguments in support of its position that the Respondent lacks any legitimate interests and registered the disputed domain name in bad faith, has documented the Respondent's use of the Complainant's CONTINENTAL, CONTILIFECYCLE and CONTITREAD trademarks, as well as the use of the address of the Complainant's Thai subsidiary, on the Respondent's website.

RESPONDENT:

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

A) Confusing similarity

The disputed domain name contains the Complainant's registered trademark CONTINENTAL with the addition of the descriptive element "truck tires" and the generic top-level domain ".com".

This Panel agrees with the Complainant's view that the addition of the terms "truck tires" (which also refer to the main product of the Complainant) is not sufficient to escape the finding that the domain name is confusingly similar to the CONTINENTAL trademark.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name, that he is not affiliated with nor authorized by the Complainant and that he is seeking to create the impression of being affiliated with the Complainant, are sufficient to constitute a prima facie demonstration of the absence of rights or legitimate interests in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark.

Thirdly, it appears that the disputed domain name has been used by the Respondent to impersonate Continental in order to facilitate fraudulent activities. This is a clear indication of the Respondent's use of a disputed domain name in bad faith.

The Panel thus believe that by using the disputed domain name, the Respondent has intentionally attempted to attract, presumably for commercial gain, Internet users to its web site by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its web site (par. 4(b)(iv) of the Policy).

Accordingly, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CONTINENTALTRUCKTIRES.COM**: Transferred

PANELLISTS

Name	Dr. Fabrizio Bedarida
------	------------------------------

DATE OF PANEL DECISION	2022-09-21
------------------------	------------

Publish the Decision	
----------------------	--