

Decision for dispute CAC-UDRP-105160

Case number CAC-UDRP-105160

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Domain names www.loropiano.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization Loro Piana S.p.A.

Complainant representative

Organization Barzanò & Zanardo Milano S.p.A.

Respondent

Organization xue a chu

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 the following trademarks:

- international word trademark LORO PIANA, Reg. No. 578976, registered on 13 November 1991, in classes 23, 24 and 25;
- European trademark LORO PIANA (device), Reg. No. 007383136, filed on 11 November, 2008 and registered on 9 June 2009, in classes 9, 14 and 35; and
- international trademark LORO PIANA (device), Reg. No. 1546962, registered on 22 May 2020, in class 25, designating among the others United States.

The disputed domain name <loropiano.com> was registered on 24 October 2022.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

(a) The Complainant is an Italian company specialized in clothing and textile products. It is considered one of the largest cashmere manufacturers and the world's leading artisan company processing luxury fibers. It has a total of 152 stores, of which 135 are directly operated.

(b) The disputed domain name redirects to a website with sexual contents.

PARTIES CONTENTIONS

COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(a) The disputed domain name is a clear misspelling of the word element of Complainant's Trademarks and therefore it is confusingly similar to Complainant's Trademarks.

(b) Complainant excludes that the Respondent is an authorized dealer, agent, distributor or reseller of Loro Piana or that he was authorized to register and use the Loro Piana trademark in a domain name. The disputed domain name redirects to a website with sexual contents. Therefore, the reputation of the LORO PIANA trademark is used to attract internet users to a website which has nothing to do with LORO PIANA and which could prejudice the reputation of the Complainant's trademark. The Complainant asserts that the Respondent has no right or legitimate interest to the disputed domain name.

(c) Respondent has registered the disputed domain name which is a misspelling of a very well-known third party's trademark without any authorization by the holder. The Respondent could not ignore the existence of the LORO PIANA trademark at the time of the registration of the disputed domain name because LORO PIANA is a very well-known trademark and is registered also in China where the Respondent is based. Moreover, LORO PIANA is a fanciful word which has no meaning; therefore, it is very hard to imagine that the Respondent was unaware of the LORO PIANA rights at the time of the registration of the disputed domain name. Furthermore, the fact that the disputed domain name is a misspelling of the LORO PIANA trademark. As a result, the Complainant believes that the disputed domain name was registered and is being used in bad faith.

RESPONDENT:

The Respondent did not provide any response to the complaint.

RIGHTS

The Panel concluded that the disputed domain name is confusingly similar to Complainant's Trademarks within the meaning of paragraph 4(a)(i) of the Uniform Domain Name Dispute Resolution Policy ("UDRP" or "Policy").

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or revoked:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will proceed to analyse whether the three elements of paragraph 4(a) of the Policy are satisfied in these proceedings.

RIGHTS

The disputed domain name is confusingly similar to the Complainant's Trademarks. It contains the word element of Complainant's Trademarks (LORO PIANA) with slight spelling variation (LORO PIANO). The Panel believes that such slight spelling variation is not sufficient to avoid confusing similarity to Complainant's Trademarks.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (for example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Panel believes that this case is a prima facie example of typosquatting (i.e. intentional attempt to attract, for commercial gain, Internet users to the web site by creating a likelihood of confusion with Complainant's Trademarks) which is one of the model situations of bad faith registration / use of a domain name (paragraph 4(b)(iv) of the Policy). As numerous previous decisions have held, typosquatting as such is evidence of bad faith (please see, for example, WIPO Case No. D2011-1079 bwin.party services (Austria) GmbH v. Interagentur AG; WIPO Case No. D2002-0568, Go Daddy Software, Inc. v. Daniel Hadani; WIPO Case No. D2002-0423 Dell Computer Corporation v. Clinical Evaluations, or WIPO Case No. D2001-0970, Briefing.com Inc v. Cost Net Domain Manager). This applies in particular where the trademark in question is well-known as it is the case of Complainant's Trademarks.

As a result, the Panel found that the disputed domain name has been registered and used by the Respondent in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. www.loropiano.com : Transferred

PANELLISTS

Name **Michal Matějka**

DATE OF PANEL DECISION 2023-03-19

Publish the Decision
