

Decision for dispute CAC-UDRP-105183

Case number	CAC-UDRP-105183
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Time of filing	2023-02-09 09:20:30
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Domain names	unystore.com
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Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	TRERE' INNOVATIONS SRL UNIPERSONALE
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Complainant representative

Organization	TRERE' INNOVATION SRL
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Respondent

Name	P Suguna
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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 a number of registered trade marks that incorporate the term 'UYN'. They include:

- European Union Trade Mark no. 016950883, filed on 5 July 2017 and registered on 6 November 2017 for "UYN" as a figurative mark in classes 25 and 35; and
- International trade mark no. 1 384 243, filed on 19 October 2017 for "UYN" as a figurative mark in classes 25 and 35 designating 17 territories and which has proceeded to grant to at least some degree in at least 11 territories.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

The Complainant is an Italian family-owned clothing company with over 70 years of history. Over the years the Complainant has become a global leader in the manufacture of socks, underwear and clothing with a high technical content.

Since 2017 the Complainant has been engaged in the design and development of a range of products, comprising base layers, mid layers, functional socks and accessories for outdoor sport under its own brand UYN.

The Complainant is a sponsor and technical partner of the national ski team of Italy, Austria, Germany, France and Slovenia, whose athletes wear UYN functional products (base layers and socks) during all word competitions.

The Complainant is also owner of multiple domain names incorporating the terms “uyn” or “unleashyournature”. These include <uynsports.com>, which is the domain name used as a main website for the Complainant’s UYN products.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

It is not necessary to address the issue of the Complainant’s rights given the Panel’s finding on the issue of bad faith registration and use.

NO RIGHTS OR LEGITIMATE INTERESTS

It is not necessary to address the issue of whether the Respondent has no rights or legitimate interests in respect of the disputed domain name given the Panel’s finding on the issue of bad faith registration and use.

BAD FAITH

The Complainant has failed to satisfy the Panel that the disputed domain name has been registered and is being used in bad faith. The reasons for this are set out in the Principal Reasons for the Decision section of this 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

In its Complaint, the Complainant on occasion refers to the domain name <unystore.com> (i.e. the disputed domain name in these proceedings) and at other times to the domain name <uynstore.com>.

For example, the Complaint:

- (i) claims “the disputed domain name ‘unystore.com’ is recently registered on June 24th, 2022”;
- (ii) claims that “the website ‘uynstore.com’ and whole content is fake and misleading for Internet users and Complainant’s clients”; and
- (iii) “requests that the disputed domain name UYNSTORE.COM be transferred” but then requests “the transfer of the disputed domain name ‘unystore.com’”.

Unfortunately, the various references to <uynstore.com> cannot be dismissed as mere typographical errors. The WhoIs details provided that are said to support the contention that the disputed domain name was registered on 24 June 2022, are not actually for the disputed domain name. They are instead for the domain name <uynstore.com>. Further, as is apparent from the Registrar response (which would have been available to the Complainant when it filed an Amended Complaint), the actual registration date for the disputed domain name is 21 April 2022.

Similarly, the website pages provided for the alleged “fake” website appear to be website pages taken from a website operating not from the disputed domain name but instead from the domain name <uynstore.com>.

Also, when addressing the alleged similarities between the disputed domain name and its marks, the Complaint does not deal with the fact that the letters “UNY” in the disputed domain name are in a different order to those letters in its marks. It simply asserts that “the dispute domain name ... is to be considered confusingly similar to Complainant’s mark, since it incorporates the UYN trademark in its

entirety [sic] and the entirety [sic] of one of the dominant and distinctive parts of the UYN UNALESH [sic] YOUR NATURE trademark (i.e. the wording ‘UYN’). ”.

In short, the Complaint is directed to <uynstore.com>, which is a different domain name from the domain name the subject of the proceedings. As a consequence, regardless of what the Complainant can or cannot demonstrate so far as the domain name <uynstore.com> is concerned, it has failed to address or demonstrate bad faith registration or use of the disputed domain name.

This is something that could not be sensibly addressed or remedied by the making of a Procedural Order. The Complainant's complaint under the UDRP is, therefore, rejected.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **uynstore.com:**

PANELLISTS

Name	Matthew Harris
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DATE OF PANEL DECISION 2023-03-23

Publish the Decision