

Decision for dispute CAC-UDRP-105245

Case number	CAC-UDRP-105245
Time of filing	2023-03-02 11:02:27
Domain names	corelledishesoutlet.com, corelle-official.com, corelleproductsonline.com, us-corelle.com

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	Instant Brands LLC
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Complainant representative

Organization	Stobbs IP Ltd
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Respondents

Name	Rong He
Name	Hai Ling Huang
Name	Olivia Conti
Name	Jiri Capcuch

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 trademark registrations in several countries, including but not limited to the following CORELLE trademark registrations:

- Registration number: 258707
 - Jurisdiction: China
 - Date of registration: 09 August 1986
 - Class: 21
- Registration number: 39201377
 - Jurisdiction: China
 - Date of registration: 07 June 2020
 - Class: 35
- Registration number: TMA167153

- Jurisdiction: Canada
- Date of registration: 02 January 1970
- Class: 21
- Registration number: UK00904259231
 - Jurisdiction: United Kingdom
 - Date of registration: 27 March 2006
 - Class: 21

The Complainant has an active online presence including owning the domain name corelle.com which has been used for the official website since at least as early as 09 November 2000.

The Respondents are based in China.

The disputed domain names were registered between 27 June 2022 and 30 June 2022.

FACTUAL BACKGROUND

The Complainant owns very extensive rights in the CORELLE mark including but not limited to the trademark registrations. Since launching the CORELLE brand in 1970, the Complainant has built a significant reputation and has built up a vast amount of goodwill in the CORELLE trademarks in the UK and abroad in relation to dinnerware goods and related services. The CORELLE brand has extensive reach offering its products and services worldwide.

In 2019, Corelle Brands LLC merged with Instant Brands Inc, creating a company with an enterprise value over \$2 billion.

Apart from the official website at <https://www.corelle.com/>, the Complainant also has presence on different social media platforms, i.e. <https://www.facebook.com/CorelleDining/>, <https://www.instagram.com/corelledining/>, <https://www.pinterest.com/corelle/> and https://www.linkedin.com/company/corelle_brands/.

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).

The Complainant claims rights in the CORELLE mark through its trademark registrations. By virtue of its trademark registration of TMA167153, the Complainant has proved that it has rights in the mark under paragraph 4(a) of the Policy. See Avast Software s. r. o. v Milen Radumilo, 102384, (CAC 2019-03-12).

The Complainant further claims that its CORELLE mark is fully recognizable within the disputed domain names and non-distinctive terms do nothing to alter the overall impression in the eyes of the average Internet user. Furthermore, the Complainant further contends that the top level domain suffix ".com" should be omitted when assessing the disputed domain names, as it is merely a technical requirement, used for domain name registrations.

The Panel accepts that the disputed domain names are confusingly similar to Complainant's CORELLE trademark.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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). More specifically, the Complainant must first make a prima facie case that the Respondents lack rights and legitimate interests in the disputed domain names, and the burden of prove then shifts to the Respondents to show they do have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

The Complainant contends that the Infringing Website's impersonate/pass off as the Complainant, claiming to be official, licensed,

or at a minimum affiliated with the Complainant. Indeed, one of the disputed domain names includes the term “official” within the domain name to perpetrate the brand impersonation. The Respondent is using the disputed domain names to resolve to active websites which offer for sale and/or advertise the sale of counterfeit and knockoff product infringing various intellectual property rights held by the Complainant, including but not limited to the Registered Trademarks.

Furthermore, the Complainant submits that the Respondents have never legitimately been known by the name CORELLE at any point in time.

The Panel finds that the Complainant has established a prima facie case that the Respondents have no rights or legitimate interests in the disputed domain names. The burden of proof has been shifted to the Respondents to prove that they have right or legitimate interests to the disputed domain names. However, the Respondents have not submitted any response to rebut the assertion within the required period of time.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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).

The Complainant reiterates that it has been the rights owner of the CORELLE well before the registration of the disputed domain names. The Respondents were unequivocally aware of the CORELLE brand given its use of the CORELLE mark on the websites resolved by the disputed domain names, and that the websites are set up to impersonate/pass off as the Complainant in order to sell counterfeit and knockoff product. Therefore, the Complainant submits that the Respondent had knowledge of CORELLE and that the disputed domain names are registered with the sole purpose of targeting the Complainant’s CORELLE mark.

The Complainant further submits that the Respondents disrupt the Complainant’s business by diverting potential customers to the websites selling counterfeit and competing goods. Using a confusingly similar domain name in a manner disruptive of a Complainant’s business by trading upon the goodwill of a Complainant for the commercial gain evinces bad faith under paragraph 4(b)(iii) and (v) of the Policy. The Complainant submits that the goods offered on the websites are counterfeit and knockoff product infringing the various intellectual property rights owned by Complainant, including but not limited to the CORELLE mark.

The Panel is of the view that at the time of registration of the disputed domain name, the Respondents knew, or at least should have known, of the existence of the Complainant’s trademarks and that registration of domain names containing well-known trademarks constitutes bad faith per se. The Panel agrees with Complainant and finds that Respondents should have actual knowledge of Complainant’s mark, demonstrating bad faith registration under paragraph 4(a)(iii) of the Policy. The Panel also agrees that Respondent disrupts Complainant’s business and attempted to commercially benefit off Complainant’s mark in bad faith under paragraph 4(b)(iii) & (iv) of the Policy.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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.

PRELIMINARY FINDINGS - CONSOLIDATION:

Pursuant to paragraph 10(c) of the Rules that a Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and the Rules. The Rules further state that Respondent means the holder of a domain name registration against which a complaint is initiated. The Complainant submitted a request for consolidation that:

1. all four disputed domain names were registered within a four-day period;
2. all four disputed domain names resolve to an active website displaying:
 - a connection to the same Chinese business entity;
 - a common physical address;
 - a common telephone number;
3. three of the four disputed domain names resolve to an active website displaying a common email address;
4. all four disputed domain names resolve to a website with the primary purpose of advertising counterfeit product infringing the rights of the Complainant;

the similarity of disputed domain names' anatomy to one another; and

5. evidence of identical and/or highly similar content (including website UI and look and feel) at the resolving websites.

The Respondent did not submit a timely Response within the required period of time.

Despite the details of the registrants of the disputed domain names are not entirely the same, the company name, address and phone number being displayed on the websites resolved by the disputed domain names are the same. In addition, having reviewed the website content resolved by the disputed domain names, the Panel agrees that the disputed domain names are very likely under common control. Without receiving a Response from the Respondent, the Panel accepts the consolidation request in accordance with Paragraph 10(e) of the Rules and article 4.11.2 of the WIPO Overview 3.0.

PRELIMINARY FINDINGS - LANGUAGE OF PROCEEDING:

The Panel notes that the languages of the Registration Agreement are English and Chinese as confirmed by the Registrars. Pursuant to paragraph 11 of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Complainant requests to use English as the language of proceeding, with the arguments that the websites resolved by the disputed domain names are in English language, the Respondents have registered numerous domain names composed by English terms and it is unfair for the Complainant to spend a significant additional cost to translate the Complaint which will also delay the proceeding. The Respondent has neither filed an official Response nor declined to use English as the language of proceeding of the current case.

The Panel is bilingual and is well equipped to deal with the proceeding in both Chinese and English. Having considered the circumstances, Panel believes that it would be fair to both parties to use English as the language of proceeding and it can also uphold the principle of UDRP being a swift dispute resolution process. Without receiving any agreement or disagreement on the language of proceeding of the present case, the Panel determines that the language requirement has been satisfied and decides that the language of proceeding to be English.

PRINCIPAL REASONS FOR THE DECISION

Having established all three elements required under the UDRP Policy, the Panel concludes that relief shall be granted.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **corelledishesoutlet.com**: Transferred
2. **corelle-official.com**: Transferred
3. **corelleproductsonline.com**: Transferred
4. **us-corelle.com**: Transferred

PANELLISTS

Name	Mr Paddy TAM
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DATE OF PANEL DECISION **2023-04-05**

Publish the Decision
