

Decision for dispute CAC-UDRP-105379

Case number	CAC-UDRP-105379
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Time of filing	2023-04-21 09:58:04
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Domain names	golashoes.org
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Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	D. Jacobson & Sons Limited
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Complainant representative

Organization	TLT LLP
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Respondent

Name	Yongliang Qiao
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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 has proven to be the owner of the GOLA mark.

The Complainant is inter alia the owner of:

UK trademark GOLA reg. no. UK00001097140, registered on June 14, 1978.

European Union trademark GOLA reg. no. 001909936, registered on March 22, 2002.

European Union trademark GOLA reg. no. 003399681, registered on April 17, 2008.

The Complainant also owns a number of domain names that include the same distinctive wording GOLA, such as the domain name <gola.co.uk>.

FACTUAL BACKGROUND

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

The Complainant is a UK-based designer, importer, seller and exporter of ladies', men's and children's footwear. The Complainant's footwear and bag products are sold throughout the world, including through its various websites registered under domain names such as <gola.co.uk> and <golausa.com>.

The disputed domain name was registered on March 23, 2023 and redirects to a third party site, <https://www.mateimages.com/>, which purports to sell shoes of different brands, including renowned brands such as Moschino, Moncler, YSL, Versace etc.

The Complainant's trademark and domain name registrations predate the registration of the disputed domain name.

PARTIES CONTENTIONS

COMPLAINANT:

The disputed domain name is confusingly similar to the Complainant's trademark

The Complainant contends that the disputed domain name is confusingly similar to the GOLA trademark. The Complainant further affirms that the disputed domain name exactly reproduces the "GOLA" trademark with the mere addition of the generic term "shoes", and that this combination strengthens confusion by suggesting to consumers that the disputed domain name and corresponding web site might be operated by the Complainant or with the Complainant's authorization.

The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent. The Complainant further contends that the disputed domain name redirects to a website offering shoes for sale, and that this is not a *bona fide* use.

The disputed domain name has been registered and is being used in bad faith

The Complainant contends that owing to the renown of the Complainant's trademarks, it is presumable that the Respondent had actual knowledge of the Complainant's distinctive trademarks.

The Complainant further contends that it is inconceivable that at the time of registration of the disputed domain name the Respondent did not know of the Complainant's trademark and activity. Rather, the combination of the GOLA distinctive trademark, together with the generic term "shoes" (referring to the goods sold by the Complainant), strengthens the confusion between the disputed domain name and the Complainant's trademark, and the inference that the Respondent was aware of the Complainant's trademark.

The Complainant also claims that the Respondent is using the disputed domain name with the sole purpose of impersonating the Complainant for fraudulent purposes.

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 Panel agrees with the Complainant's assertion that the addition of the generic term, "shoes", does not prevent the disputed domain name from being confusingly similar to the Complainant's trademarks.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest 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 trademarks and reputation in the Complainant's field, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademarks 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 Respondent is redirecting the disputed domain name to a website which purports to sell shoes of different brands, including renowned brands such as Moschino, Moncler, YSL, Versace etc., thus exploiting the Complainant's trademark in order to pass itself off as the Complainant or a branch of the Complainant.

Fourthly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **golashoes.org**: Transferred

PANELLISTS

Name	Fabrizio Bedarida
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DATE OF PANEL DECISION 2023-06-05

