

Decision for dispute CAC-UDRP-105929

Case number	CAC-UDRP-105929
Time of filing	2023-11-07 11:40:31
Domain names	CLIVECHRISTIANUK.COM

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	Nichebox UK Limited
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Complainant representative

Organization	Perani Pozzi Associati
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Respondent

Organization	egs
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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 owns various trade mark registrations for its CLIVE CHRISTIAN trade mark including International registration 976529 registered on 4 September 2008 and International trade mark registration 1197100 registered on 16 August 2013. It also owns various domain names that incorporate the CLIVE CHRISTIAN mark and from which it operates its websites, including <clivechristian.com> and <clivechristian.co.uk>.

FACTUAL BACKGROUND

The Complainant based in the United Kingdom builds small and medium size perfume and skin care brands and in particular the CLIVE CHRISTIAN perfume collection. The official website for this collection is at <clivechristian.com>

The disputed domain name was registered on August 7, 2023 and resolves to a website that purports to offer for sale the Complainant's products and which reproduces its CLIVE CHRISTIAN trade mark and its logo.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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

The Complainant has demonstrated that it owns registered trade mark rights in its CLIVE CHRISTIAN trade mark as set out above. The disputed domain name wholly incorporates this mark and the Panel agrees with the Complainant that the mere inclusion of the abbreviation "UK" for the United Kingdom does not distinguish the disputed domain name or prevent a finding of confusing similarity. The Complaint therefore succeeds under paragraph 4(a)(i) of the Policy.

The Complainant has submitted that the Respondent has no rights in the disputed domain name and that any use of the trade mark CLIVE CHRISTIAN has to be authorised by the Complainant. It says that it has not authorised or licensed the Respondent to register or use the disputed domain name. It has also submitted that the disputed domain name does not correspond to the name of the Respondent, that the Respondent is not commonly known by the name or mark CLIVECHRISTIANUK and that there is no evidence of fair or non-commercial use of the disputed domain name. As described below, the Panel notes that the Respondent has also used the Complainant's trade mark and logo on the website to which the disputed domain name resolves in an apparent attempt to masquerade as if it is the Complainant, or is affiliated with or authorised by it, when this is not the case. As a consequence the Panel finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has failed to respond or to rebut this case and therefore the Panel finds that the Complaint succeeds under paragraph 4(a)(ii) of the Policy.

The disputed domain name was registered in 2023 many years after the registration of the Complainant's earliest trade mark. The CLIVE CHRISTIAN mark is distinctive and as noted by the Complainant its business and mark are apparent upon a simple Google search. Further its trade mark and logo are reproduced on the website to which the disputed domain name resolves. The Panel therefore finds it more likely than not that the Respondent was well aware of the Complainant's mark and business when it registered the disputed domain name.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

The Panel agrees with the Complainant that the Respondent has used the disputed domain name incorporating the Complainant's trade mark in order to confuse Internet users into thinking that they were arriving at the Complainant's site. Once at the website to which the disputed domain name resolves they may very well have mistaken the website as Complainant's, or as having been authorised by it, in circumstances that it features the Complainant's trade mark, logo and photographs of its products and offers them for sale. The Panel finds that this conduct fulfills the requirements of paragraph 4(b)(iv) of the Policy which is evidence of registration and use in bad faith.

This amounts to the Respondent fraudulently masquerading as if it is the Complainant and is exactly the kind of abuse that the Policy sets out to remedy therefore the Panel finds that the Complaint succeeds under 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. **CLIVECHRISTIANUK.COM**: Transferred

PANELLISTS

Name	Mr Alistair Payne
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DATE OF PANEL DECISION 2023-12-05

Publish the Decision