Decision for dispute CAC-UDRP-105992

Case number	CAC-UDRP-105992
Time of filing	2023-11-22 09:33:35
Domain names	underarmours-hrvatska.com, underarmouroutlethrvatska.com, under-armourgreece.com, ua-greece.com, skroutzunderarmour.com, underarmouroutletromania.com, magazineunderarmourromania.com, underarmourwinkelsbelgie.com, underarmourportugalonline.com, underarmour-nl.com, underarmourstoreamsterdam.com, underarmourshopwien.com, underarmourosterreich.com, underarmourschuhesale.com, underarmourschoenensale.com, underarmor-tenisky.com, underarmourwarszawa.com, underarmourse.com, underarmourboltok.com, underarmourihungary.com, underarmourboty.com, zapatillasunderarmouroutlet.com, underarmormadrid.com, underarmorfrance.com, boutiqueunderarmourparis.com, underarmourde.com, underarmourusashirt.com, underarmouruksale.com, underarmourtshirtsale.com, underarmourth.com, underarmouroutletbackpacks.com, underarmournzoutlet.com, underarmournyc.com, underarmourfactoryoutletuk.com, under-armour-uk.com, underarmourlondon.com, underarmourie.com, underarmour-italia.com, negoziunderarmourmilano.com, underarmourit.com, under-armourfactoryoutlet.com, underarmour-usa.com, underarmour-ca.com, underarmourca.com, ua-canada.com, underarmourmoncton.com, underarmours-peru.com, underarmorperu.com, comprarunderarmourchile.com, ua-chile.com, underarmorchile.com, underarmourchileoutlet.com, underarmormx.com, underarmouronlinemexico.com, tiendaunderarmourmexico.com, zapatillasunderarmourargentina.com, underarmorargentina.com, underarmorcolombia.com, underarmourmedellin.com, venezuelaunderarmour.com, underarmoureecuador.com, underarmorbrasil.com, under-armourcostarica.com, under-armour-uae.com, underarmoruae.com, under-armouruae.com, underarmour-saudiarabia.com, underarmourshoesksa.com, underarmortr.com, underarmour-israel.com, underarmouril.com, underarmour-eg.com, underarmoureg.com, under-armour-maroc.com, underarmorsouthafrica.com, underarmour-nz.com, ua-australia.com, underarmoraustralia.com, under-armourindias.com, under-armoursindia.com, under-armourindia.com, underarmourindiastore.com, underarmourshoesindia.com, underarmourindiaonline.com, underarmourmalaysiaoutlet.com, underarmorindonesia.com, underarmorph.com, underarmour-thailand.com, buyunderarmoursg.com, underarmoursingaporeoutlets.com, underarmorjapan.com, under-armourindian.com, underarmours-israel.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Under Armour Inc.

Complainant representative

Organization	Convey srl

Respondent

Organization	**Web Commerce Communications Limited**

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 names.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia amongst many others trademarks, proprietor of the International Registration UNDER ARMOUR 1262080 registered since June 22, 2015 for services in class 35 and extended to several countries as well as for the International trademark 1395802 for UA of January 8, 2018 in class 35 for several countries. Both marks are in effect.

FACTUAL BACKGROUND

The Complainant is an U.S.A. company that manufactures footwear, sports, and casual apparel, headquartered in Baltimore, Maryland with additional offices located in Amsterdam (European headquarters), Austin, Guangzhou, Hong Kong, Houston, Jakarta, London, Mexico City, Munich, New York City, Panama City (international headquarters), Paris, Pittsburgh, Portland, San Francisco, São Paulo, Santiago, Seoul, Shanghai (Greater Chinese headquarters), and Toronto.

The Complainant is widely known as one of the largest sportswear brands in the U.S. also for its partnership with NBA athlete Stephen Curry, who is considered to be the "face of their footwear line".

In the CAC decision n. 102389 Under Armour Inc. v. Torsten Ebersbach, panel found that the mark „UNDER ARMOUR“ of the Complainant enjoys worldwide reputation in the sector of manufacturing footwear, sports and casual apparel.

All the disputed domain names were registered in the years 2022 and 2023.

The disputed domain names have been pointed to websites dedicated to the sale of goods bearing the Complainant’s marks or were redirected to websites offering for sale Complainant’s goods whereas some websites under the disputed domain names are offline.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant contends that the disputed domain names are confusingly similar to the trademark UNDER ARMOUR and UA since the domain names wholly incorporate Complainant´s mark as well as the other elements are either of a geographical nature or descriptive. The Complainant denies that the Respondent was an authorized reseller and contends that he never authorized him to register or use the disputed domain names. Given Complainant´s trademark being well known, Complainant finally contends that the Respondent has registered and used the domain names with full knowledge of the Complainant's trademark.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Complainant has requested a consolidation of these domain names since the domain names, inter alia, follow the same format, were registered by the same registrar, have the same holder and contents of the websites (almost) mirror each other to a far extent.

According to the paragraph 10(e) of the Rules of UDRP Policy “a Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules”. Paragraph 3(c) of the UDRP Rules states that: “The complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder”. All the disputed domain names belong to the same holder. The request for consolidation is accordingly granted.

Also otherwise, 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 established the fact that it has valid trademark rights for UNDER ARMOUR and UA, inter alia in class 35 in several countries.

The disputed domain names are confusingly similar to the UNDER ARMOUR and UA marks of the Complainant since the TLD „.com“ and the geographical identifiers such as „romania“ or „nl“, descriptive elements such as „outlet“ or „shop“ or combinations of geographical and descriptive elements such as „storeamsterdam“ cannot be considered as relevant to influence the overall impression of the domain name respectively avoid a high confusing similarity. Also the disputed domain name <skroutzunderarmour.com> is still highly similar to Complainant´s trademark „UNDER ARMOUR“ since the addition of the name of a selling platform as „Skroutz“ does not eliminate a likelihood of confusion.

The following disputed domain names have a geographical element and a descriptive element in addition to a trademark of the Complainant as mentioned above:

- underarmouroutlethrvatska.com
- underarmouroutletromania.com
- magazineunderarmourromania.com
- underarmourportugalonline.com
- underarmourstoreamsterdam.com
- underarmourshopwien.com
- underarmourschuhesale.com
- underarmouronlinemexico.com
- boutiqueunderarmourparis.com
- underarmourusashirt.com
- underarmouruksale.com
- negoziunderarmourmilano.com
- underarmourchileoutlet.com
- underarmournzoutlet.com
- underarmourindiastore.com
- underarmourshoesindia.com
- underarmourindiaonline.com
- underarmourmalaysiaoutlet.com

- underarmourihungary.com

The following disputed domain names have a geographical element in addition to a trademark of the Complainant as mentioned above:

- underarmourth.com
- underarmourie.com
- underarmours-hrvatska.com
- under-armourgreece.com
- ua-greece.com
- underarmour-nl.com
- underarmourosterreich.com
- underarmourwarszawa.com
- underarmourse.com
- underarmoraustralia.com
- under-armourindia.com
- underarmorindonesia.com
- underarmour-thailand.com
- underarmorjapan.com
- under-armourindian.com
- underarmours-israel.com
- underarmorargentina.com
- underarmorcolombia.com
- underarmourmedellin.com
- venezuelaunderarmour.com
- underarmoureecuador.com
- underarmorbrasil.com
- under-armourcostarica.com
- under-armour-uae.com
- underarmoruae.com
- under-armouruae.com
- underarmour-saudiarabia.com
- underarmortr.com
- underarmour-israel.com
- underarmouril.com
- underarmour-eg.com
- underarmoureg.com
- under-armour-maroc.com
- underarmorsouthafrica.com
- ua-australia.com

- underarmormadrid.com
- underarmorfrance.com
- underarmourde.com
- underarmournyc.com
- underarmourfactoryoutletuk.com
- under-armour-uk.com
- underarmourlondon.com
- underarmour-italia.com
- underarmourit.com
- underarmour-usa.com
- underarmour-ca.com
- underarmourca.com
- ua-canada.com
- underarmours-peru.com
- underarmorperu.com
- ua-chile.com
- underarmorchile.com
- underarmormx.com
- underarmour-nz.com
- under-armourindias.com
- under-armoursindia.com
- buyunderarmoursg.com
- underarmourshoesksa.com
- underarmoursingaporeoutlets.com
- zapatillasunderarmouroutlet.com
- underarmourmoncton.com
- comprarunderarmourchile.com
- tiendaunderarmourmexico.com
- zapatillasunderarmourargentina.com
- underarmourwinkelsbelgie.com (whereas "winkel" is a generic dutch term, see CAC 102389)
- underarmorph.com

The following disputed domain names have a descriptive element in addition to a trademark of the Complainant as mentioned above:

- underarmourtshirtsale.com
- underarmouroutletbackpacks.com
- under-armourfactoryoutlet.com
- underarmourboty.com (boty is Czech for shoes)
- underarmourschoenensale.com (German/Dutch/English)

- underarmor-tenisky.com (Tenisky is Czech for sneakers)

- underarmourboltok.com (Boltok is Hungarian for shops)

The Panel therefore considers the domain names to be confusingly similar to the trademark UNDER ARMOUR respectively UA in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

The Respondent has no rights in the disputed domain names since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks. Furthermore, the Respondent has no legitimate interest in the domain names since there is no indication that the Respondent is commonly known by the name "UNDER ARMOUR" or „UA" or the disputed domain names nor that the Respondent is using the domain name in connection with a bona fide offering of related goods or services.

The latter could be discussed since some websites seem to have offered products from the Complainant. However, the majority opinion of panelists follows in cases where a legitimate interest of resellers of original goods to use a trademark in the domain name is in question, the test of Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No.D2001-0903, <okidataparts.com> after which such use might be legitimate if the use comprise the actual offering of goods, only the trademarked goods are sold on the site, and the site is accurately and prominently disclosing the registrant's relationship with the trademark holder.

Although this panel follows even the argumentation that any reseller is not allowed to use the trademark, unless otherwise authorized, in a manner which goes beyond the scope of informing the customer about the core of its business activities (see also Ferrero S.p.A. v. Fistagi S.r.l., WIPO Case No. D2001-0262; Raymond Weil SA v. Watchesplanet (M) Sdn Bad, WIPO Case No. D2001-0601; dissenting opinion in DaimlerChrysler A.G. v. Donald Drummonds, WIPO Case No. D2001-0160) and unless it is not clear for the customer that the retailer is not an authorized partner of the Trademark owner, the present case does not meet even the less strong criteria of the test after Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No.D2001-0903, <okidataparts.com>, since the websites under the disputed domain names create the impression of being authorized by the Complainant or even the Complainant himself whereas any other relationship to the Complainant is not disclosed in a prominent way.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain names.

Due to the use of the trademarks of the Complainant on the websites under the disputed domain names and Complainant marks being well known as it was assessed by CAC decision n. 102389 Under Armour Inc. v. Torsten Ebersbach, which view is shared by this panel, the Respondent must have been well aware of the Complainant and its trademarks when registering the domain names. The Complainant had not authorised the Respondent to make use of its mark. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant's authorization.

The circumstances of this case furthermore indicate that the Respondent registered and uses the domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to a potential website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such potential website or location, or of a product or service on such website or location.

As far as the disputed domain names are offline, the consensus view amongst panellists since the decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org> is that "the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trade mark holder (passive holding), does not as such prevent a finding of bad faith. The Panel must examine all the circumstances of the case to determine whether the respondent is acting in bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint is filed, and the implausibility of any good faith use to which the domain name may be put. In the present case, the Panel is convinced that such circumstances are given. Accordingly, the present circumstances do not prevent a finding of bad faith under the Policy.

The Panel therefore considers the disputed domain names to have been registered and used in bad faith in accordance with 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. **underarmours-hrvatska.com**: Transferred
2. **underarmouroutlethrvatska.com**: Transferred
3. **under-armourgreece.com**: Transferred
4. **ua-greece.com**: Transferred
5. **skroutzunderarmour.com**: Transferred
6. **underarmouroutletromania.com**: Transferred
7. **magazineunderarmourromania.com**: Transferred

8. **underarmourwinkelsbelgie.com**: Transferred
9. **underarmourportugalonline.com**: Transferred
10. **underarmour-nl.com**: Transferred
11. **underarmourstoreamsterdam.com**: Transferred
12. **underarmourshopwien.com**: Transferred
13. **underarmourosterreich.com**: Transferred
14. **underarmourschuhesale.com**: Transferred
15. **underarmourschoenensale.com**: Transferred
16. **underarmor-tenisky.com**: Transferred
17. **underarmourwarszawa.com**: Transferred
18. **underarmourse.com**: Transferred
19. **underarmourboltok.com**: Transferred
20. **underarmourihungary.com**: Transferred
21. **underarmourboty.com**: Transferred
22. **zapatillasunderarmouroutlet.com**: Transferred
23. **underarmormadrid.com**: Transferred
24. **underarmorfrance.com**: Transferred
25. **boutiqueunderarmourparis.com**: Transferred
26. **underarmourde.com**: Transferred
27. **underarmourusashirt.com**: Transferred
28. **underarmouruksale.com**: Transferred
29. **underarmourtshirtsale.com**: Transferred
30. **underarmourth.com**: Transferred
31. **underarmouroutletbackpacks.com**: Transferred
32. **underarmournzoutlet.com**: Transferred
33. **underarmournyc.com**: Transferred
34. **underarmourfactoryoutletuk.com**: Transferred
35. **under-armour-uk.com**: Transferred
36. **underarmourlondon.com**: Transferred
37. **underarmourie.com**: Transferred
38. **underarmour-italia.com**: Transferred
39. **negoziunderarmourmilano.com**: Transferred
40. **underarmourit.com**: Transferred
41. **under-armourfactoryoutlet.com**: Transferred
42. **underarmour-usa.com**: Transferred
43. **underarmour-ca.com**: Transferred
44. **underarmourca.com**: Transferred
45. **ua-canada.com**: Transferred
46. **underarmourmoncton.com**: Transferred
47. **underarmours-peru.com**: Transferred
48. **underarmorperu.com**: Transferred
49. **comprarunderarmourchile.com**: Transferred
50. **ua-chile.com**: Transferred
51. **underarmorchile.com**: Transferred
52. **underarmourchileoutlet.com**: Transferred
53. **underarmormx.com**: Transferred
54. **underarmouronlinemexico.com**: Transferred
55. **tiendaunderarmourmexico.com**: Transferred
56. **zapatillasunderarmourargentina.com**: Transferred
57. **underarmorargentina.com**: Transferred
58. **underarmorcolombia.com**: Transferred
59. **underarmourmedellin.com**: Transferred
60. **venezuelaunderarmour.com**: Transferred
61. **underarmoureecuador.com**: Transferred

62. **underarmorbrasil.com**: Transferred
63. **under-armourcostarica.com**: Transferred
64. **under-armour-uae.com**: Transferred
65. **underarmoruae.com**: Transferred
66. **under-armouruae.com**: Transferred
67. **underarmour-saudiarabia.com**: Transferred
68. **underarmourshoesksa.com**: Transferred
69. **underarmortr.com**: Transferred
70. **underarmour-israel.com**: Transferred
71. **underarmouril.com**: Transferred
72. **underarmour-eg.com**: Transferred
73. **underarmoureg.com**: Transferred
74. **under-armour-maroc.com**: Transferred
75. **underarmorsouthafrica.com**: Transferred
76. **underarmour-nz.com**: Transferred
77. **ua-australia.com**: Transferred
78. **underarmoraustralia.com**: Transferred
79. **under-armourindias.com**: Transferred
80. **under-armoursindia.com**: Transferred
81. **under-armourindia.com**: Transferred
82. **underarmourindiastore.com**: Transferred
83. **underarmourshoesindia.com**: Transferred
84. **underarmourindiaonline.com**: Transferred
85. **underarmourmalaysiaoutlet.com**: Transferred
86. **underarmorindonesia.com**: Transferred
87. **underarmorph.com**: Transferred
88. **underarmour-thailand.com**: Transferred
89. **buyunderarmoursg.com**: Transferred
90. **underarmoursingaporeoutlets.com**: Transferred
91. **underarmorjapan.com**: Transferred
92. **under-armourindian.com**: Transferred
93. **underarmours-israel.com**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2024-01-15

Publish the Decision