Decision for dispute CAC-UDRP-106099

Case number	CAC-UDRP-106099
Time of filing	2023-12-21 10:00:09
Domain names	golaaustraliasale.com, golabelgique.com, golabelgium.com , golabrasiloutlet.com, golacanada.net , goladanmark.com, golairelandstore.com, golanederlandstore.com, golanorge.com , golaportugalstore.com, golaschweizsale.com, golasouthafricaonline.com, golasuisse.com, golauk.com

Case administrator

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

Complainant

Organization	D Jacobson & Sons Limited

Complainant representative

Organization	TLT LLP

Respondent

Name	Qiu Xiaofeng

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, the owner of EU trademark registration no. 001909936 "GOLA", registered on March 22, 2002, in classes 18, 25, and 28 (hereinafter referred to as the "Trademark"). The Trademark clearly predates the registration dates of the disputed domain names.

FACTUAL BACKGROUND

The Complainant is a United Kingdom-based designer, importer, seller and exporter of women's, men's and children's footwear. Complainant's footwear and bags 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 names were registered between May 30, 2023 and July 13, 2023. These domains were all used to host active websites that mirrored the Complainant's real websites, include content from the Complainant's website, and prominently display the Trademark at the top of the website.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant alleges that the disputed domain names are identical or highly similar to the Trademark, in which the Complainant has acquired substantial goodwill and reputation in the UK and European Union.

The Complainant further alleges that the Respondent has no rights or legitimate interests in the disputed domain names. In particular, the Complainant asserts that the disputed domain names are in no way associated with or authorized by the Complainant. They further argue that the use of the Trademark in the disputed domain names implies that there is a commercial relationship between the Complainant and the disputed domain names where there is none.

Finally, the Complainant alleges that the disputed domain names were registered and are being used in bad faith. The Complainant states that the disputed domain names were clearly set up by the Respondent to mirror the Complainant's genuine websites. Further, the Complainant states that the Respondent was unaware of the similarity between the disputed domain names and the Trademark at the time of registration. With respect to bad faith use, the Complainant argues that the use of the disputed domain names is likely to mislead relevant members of the public who attempt to purchase products through the disputed domain names into believing that they are doing so from the Complainant's genuine website or from a website that is in any way affiliated or associated with the Complainant, when in fact they are not. The Complainant alleges that the disputed domain names were registered to impersonate 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 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 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

Paragraph 4(a) of the Policy requires the Complainant to establish each of the following three elements:

(i) the disputed domain names are identical or confusingly similar to the Complainant's trademark; and
(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
(iii) the disputed domain names have been registered and are being used in bad faith.

1. The Panel accepts that the disputed domain names are confusingly similar to the Trademark because the Trademark is recognizable in all of the disputed domain names. Furthermore, it is well established that a domain name that fully incorporates a trademark may be confusingly similar to such a trademark within the meaning of the Policy despite the addition of generic terms like "online", "outlet", "sale", or "store", and geographical designations
like "australia", "belgique", "belgium", "brasil", "canada", "danmark", "ireland", "nederland", "norge, "portugal", "schweiz", "southafrica", "suisse", or "uk".

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain names. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent has not denied these allegations and has therefore failed to establish any rights or legitimate interests in the disputed domain names.

Based on the evidence on file, the Panel cannot find any rights or legitimate interests of the Respondent either. In particular, the Panel

finds that the Respondent's websites do not meet the Oki Data criteria as the Respondent, at least, has not disclosed its total lack of relationship or connection to the Complainant but rather prominently featured the Trademark, which gives the false impression that the pages were at least authorized by the Complainant. Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the disputed domain names under paragraphs 4(a)(ii) and 4(c) of the Policy.

2.3 The Panel is also satisfied that the Respondent registered the disputed domain names with full knowledge of the Complainant and its rights in the Trademark as the Respondent uses the disputed domain names to direct Internet users to websites that mirror the Complainant's genuine websites.

As to bad faith use, by using the disputed domain names in connection with the websites mentioned above, the Respondent was, in all likelihood, trying to divert traffic intended for the Complainant's website to its own for commercial gain as set out under paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **golaaustraliasale.com**: Transferred
2. **golabelgique.com**: Transferred
3. **golabelgium.com** : Transferred
4. **golabrasiloutlet.com**: Transferred
5. **golacanada.net** : Transferred
6. **goladanmark.com**: Transferred
7. **golairelandstore.com**: Transferred
8. **golanederlandstore.com**: Transferred
9. **golanorge.com** : Transferred
10. **golaportugalstore.com**: Transferred
11. **golaschweizsale.com**: Transferred
12. **golasouthafricaonline.com**: Transferred
13. **golasuisse.com**: Transferred
14. **golauk.com**: Transferred

PANELLISTS

Name	**Peter Müller**

DATE OF PANEL DECISION 2024-01-23

Publish the Decision