# Decision for dispute CAC-UDRP-106178

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| Case number | CAC-UDRP-106178 |
| Time of filing | 2024-01-29 10:54:35 |
| Domain names | milanocortina2026.live |

## Case administrator

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

## Complainant

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| Organization | Fondazione Milano Cortina 2026 |

## Complainant representative

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| Organization | De Simone & Partners S.p.A. |

## Respondent

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| Organization | Vetrya S.p.A. |

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 Italian trademarks:

- Registration No. 302018000034117 for the trademark MILANO CORTINA 2026 (word mark) filed on October 26, 2018 and registered on May 23, 2019 at all 45 classes of the Nice Classification;

- Registration No. 302021000056483 for the trademark MILANO CORTINA 2026 (figurative) filed on March 29, 2021 and registered on February 6, 2023 at all 45 classes of the Nice Classification;

- Registration No. 302021000065576 for the trademark MILANO CORTINA 2026 (figurative) filed on April 9, 2021 and registered on October 23, 2022.

In addition, the Complainant owns different domain names including the term MILAANO CORTINA such as <2026milanocortina.com>, <2026milanocortina.net>, among many others.

FACTUAL BACKGROUND

**FACTS PROVIDED BY THE COMPLAINANT:**

The Complainant is the Organizing Committee of the Winter Olympics and Paralympics Games to be held in Italy in 2026 (hereinafter “Games”) and oversees regulating, supervising and managing all matters related to the Games and up to 2026 is within the Italian territory the representative of the International Olympic Committee (“IOC”) in relation to all the Olympic Properties.

In accordance with the Complainant, the joint application for hosting the Games in 2026 in Italy was officially accepted by the IOC under the name of “MILANO CORTINA 2026”. Therefore, the trademark MILANO CORTINA 2026 is unanimously associated with the 2026 Olympic and Paralympic Games.

For the first time in 123 years from the first edition of the modern Olympic Games of 1896 in Athens, it was accepted a joint candidature of two cities. So, it is even more true that the specific combination of the terms MILAN + CORTINA and 2026 is unequivocally linked to the candidature and to this edition of the Olympics and must be considered distinctive.

The Complainant is the owner of the Italian trademark (word mark) MILANO CORTINA 2026 as well as two Italian figurative trademarks including the term MILANO CORTINA 2026. In addition, the Complainant is the owner of different domain names including the term MILANO CORTINA 2026, such as <2026milanocortina.com>, <2026milanocortina.net>, among many others.

The disputed domain name <milanocortina2026.live > (hereinafter, the “Disputed Domain Name”) was registered on August 1, 2018 and it resolves to an inactive website.

According to Complainant’s non-contested allegations, the Respondent has no rights or legitimate interest in respect of the Disputed Domain Name and he is not related in any way to the Complainant’s business.

For the purpose of this case, the Registrar confirmed that the Respondent is the current registrant of the Disputed Domain Name and that the language of the registration agreement is English.

Respondent did not reply to the Complaint.

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PARTIES CONTENTIONS

COMPLAINANT:

First element: Similarity

The Complainant confirms that the Disputed Domain Name **<milanocortina2026.live>** is identical to its trademarks MILANO CORTINA 2026®.

The Complainant states that Olympics are a renowned event and the candidature process / the candidature selection of a candidate cities, due the immediate and global coverage of press and media, becomes instantly internationally well- know. The related trademark(s) become as well instantly distinctive sign(s), as virtually any user, from the time when the candidature of a city is disclosed, will associate the trademark CITY+YEAR to the candidature and later, if the city is / the cities are chosen, will associate the trademark CITY+YEAR to the Games, as it happened to the winter Games of 2026 allocated to Italy.

The Complainant further indicates that internet users will be definitely confused into believing that there is some affiliation, connection, sponsorship approval or association between the Complainant and the Respondent, when in fact there is no such relationship.

Furthermore, the Complainant states that it has never licensed, authorized, or otherwise permitted the Respondent to register domain names incorporating its trademarks, nor to make use of its trademarks in order to distinguish any business. This is even more true, since the Disputed Domain Name includes a direct reference to the trademark of the Complainant, since the combination of these two specific cities MILANO and CORTINA together with 2026 is nowadays universally and undoubtedly linked to the Italian 2026 winter Games. Thus, likelihood of confusion, is manifest.

Furthermore, the Complainant contends that the applicable top-level suffix in the Disputed Domain Name (e.g., ".live") would usually be disregarded under the confusing similarity test (as it is a technical requirement of registration).

Second element: Rights or legitimate interest

The Complainant claims that the Respondent has no right or legitimate interests in respect of the Disputed Domain Name

The Complainant asserts that there is no evidence at all that the Disputed Domain Name at issue is legitimately associated to a third party known through it. Indeed, it is believed that the Registrant has no rights or legitimate interest with respect to the MILANO CORTINA 2026 trademark and its registration as a domain name. For the Complainant, this is a typical case of abusive registration, as arbitrarily and abusive is the use of the other Complainant’s trademarks in the contents of the corresponding web sites.

Finally, the Complainant states that there is no evidence either of a bona fide offering of goods and services, on the contrary bad faith is clearly proved (the web site is even a non-secure website so threatening the reputation and reliability of the Complainant and its web contents). Finally, the use of the Disputed Domain Name corresponding to the Complainant’s trademark (s) has not been licensed or otherwise authorized.

Third element: Bad faith

The Complainant indicates that it is widely known that the pattern "city + year" is internationally synonymous with the Games and is a distinctive sign instantly capable of indicating to consumers the Olympic origins of the goods and services bearing the that sign. Besides, special protection is granted by the law to the Olympic and Paralympics Signs and in general to global renown sport signs such as MILANO CORTINA 2026, no matter whether they are registered or not, because of immediate brand awareness among consumers independently from formal registration. In order to reinforce this protection then, more than often the right holders also chose to register those signs as a trademark.

In addition, the Complainant contends that the Disputed Domain Name was unlawfully registered exactly when Italy (and the cities of Milan and Cortina d'Ampezzo) made official their decision to candidate themselves to host the Winter Games of 2026, as evidenced by the press; i.e. August 1, 2018. In this context, the Complainant asserts that this coincidence cannot be disregarded and gives a clear clue that the Respondent could not be unaware of the Complainant when they registered the Disputed Domain Name and indeed, they registered it clearly in bad faith.

The Complainant also claims that the Respondent, has registered "milanocortina2026.live" evidently in order to prevent the legitimate owner of the trademark rights over the sign MILANO CORTINA 2026 to register a corresponding principal domain name, such as the .live and in order to take advantage of the possible confusion between the Disputed Domain Name and any potential Milano Cortina 2026 future rights over the sign MILANO CORTINA 2026.

The Complainant also indicates that the Disputed Domain Name was registered, with no willingness to lawfully use it since it is currently devoid of any legitimate contests (and six years have passed after registration). Therefore, it can be reasonably believed that the Respondent registered and maintained <milanocortina2026.live> in bad faith in order to ride the coattail and make his fortune on the strength of a possible confusion/association between the Disputed Domain Name and the Milano Cortina 2026 rights over the sign MILANO CORTINA 2026.

Furthermore, as the Disputed Domain Name corresponds to the Complainant's trademark(s), it is so obviously connected to the Complainant that its very use by someone with no connection with the Complainant suggests opportunistic bad faith.

The Complainant claims that negotiation could not be carried on by the Respondent since they did not reply to the communication sent by the Respondent in order to find a settlement agreement. Finally, the Complainant confirmed that the Disputed Domain Name <milanocortina2026.live> is not being actively used by the Respondent, as it has no contents, as mentioned above. In this regard, the Complainant explained the position of past panels in the sense 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 trademark holder (passive holding), it still gives the Panel the obligation to 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, among others, the Complainant having a well-known and reputed trademark (as this is the case) and whether a response to the Complaint has been filed or not.

RESPONDENT

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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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).

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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).

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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).

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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 DISPUTED DOMAIN NAME IS IDENTICAL TO THE TRADEMARK MILANO CORTINA 2026® OF THE COMPLAINANT.

The Uniform Domain Name Dispute Resolution Policy (the Policy) in its Paragraph 4(a)(i) indicates the obligation of Complainant to demonstrate that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights.

The Complainant has submitted evidence showing the ownership of the Italian trademarks MILANO CORTINA 2026 (word mark) registration No. 302018000034117, MILANO CORTINA 2026 (figurative) registration No. 302021000056483 & MILANO CORTINA 2026 (figurative) registration No. 302021000065576.

In the present case, the Disputed Domain Name <milanocortina2026.live> is composed of the trademark MILANO CORTINA 2026®.

Furthermore, the addition of the Top Level Domain Name ".live" at the Disputed Domain Name is considered as standard registration requirements and, therefore, they should be disregarded under the first element confusing similarity test (see paragraph 1.11 WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition – hereinafter, the "WIPO Jurisprudential Overview 3.0").

Therefore, the Panel concludes that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy and the Disputed Domain Name is identical to Complainant's mark.

RESPONDENT'S LACK OF RIGHTS OR LEGITIMATE INTERESTS IN THE DISPUTED DOMAIN NAME.

The second element of the Policy requires that the Complainant establishes that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The generally adopted approach by UDRP panels, when considering the second element, is that if a complainant makes out a prima facie case, the burden of proof shifts to the respondent to rebut it (see WIPO Jurisprudential Overview, version 3.0., paragraph 2.1).

The Complainant indicates that the Respondent is not affiliated nor authorized in any way to use the trademark **MILANO CORTINA 2026®**. Furthermore, the Complaint argues that it does not carry out any activity for, nor has any business with the Respondent. Finally, the Complainant has not granted a license or authorization to the Respondent to make any use of the trademark **MILANO CORTINA 2026®**.

From the information provided by Complainant, there is no evidence or reason to believe that the Respondent (as individual, business or other organization) has been commonly known by the Disputed Domain Name. The Respondent's name "Vetrya S.p.A HQ" provided in the Registrar's verification is all what it links the Disputed Domain Name with the Respondent. Absent of any other evidence such as a personal name, nickname or corporate identifier, the Panel is of the opinion that the Respondent is not commonly known by the Disputed Domain Name.

Moreover, the website associated with the Disputed Domain Name resolves to an inactive website. Different panels have confirmed that the lack of content at the Disputed Domain Name can be considered as a finding that Respondent does not have bona fide offering of goods and services (see, for example, Forum Case No. FA 1773444, Ashley Furniture Industries, Inc v. Joannet Macket/JM Consultants).

The fact that Respondent did not reply to the Complaint gives an additional indication that Respondent lacks rights or legitimate interest since Respondent did not provide with evidence of the types specified in paragraph 4 (c) of the Policy, or of any circumstances, giving rise to rights or legitimate interests in the Disputed Domain Name.

Therefore, the Panel concludes that neither the Respondent nor the evidence establishes that the Respondent has any right or legitimate interest to the Disputed Domain Name. The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH IN ACCORDANCE WITH THE POLICY.

Paragraph 4(a)(iii) of the Policy indicates that Complainant must assert that the Respondent registered and is using the Disputed Domain Name in bad faith. In this sense, Paragraph 4(b) of the Policy sets out four circumstances which if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that the Respondent has registered or acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the Respondent has registered the Disputed Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product.

The first point to consider refers to Complainant's allegation that the Disputed Domain Name was registered on August 1, 2018. In terms of the information provided by the Registrar on its verification dated January 23, 2024, it is stated that the Disputed Domain Name was created on February 16, 2021.

Since Complainant's word mark registration **MILANO CORTINA 2026®** was completed on May 23, 2019 – more than one year before the Disputed Domain Name was registered, then the Panel is of the opinion that there is no need to get into further analysis regarding the previous registration of the Disputed Domain Name with respect to the remaining two additional trademarks which were registered after the registration of the Disputed Domain Name.

The evidence submitted by Complainant confirms that its trademark MILANO CORTINA 2026® is known at least from the time that the candidature of Milano and Cortina d' Ampezzo for the 2026 Olympic Games was made official in August 1, 2018. In this vein, the Complainant referred to the UDRP CAC case Nr. 102549 – similar to the current case- by which the Panels confirmed that the Complainant is widely known. Absent of Respondent's reply, the Panel finds that Respondent, prior to the registration of the Disputed Domain Name was aware of Complainant's trademark, in particular since the Disputed Domain Name was registered on February 16, 2021 and the Complainant's Word mark was registered on May 23, 2019 (almost two years before the registration of the Disputed Domain Name and several years after the candidature was made public; i.e. August 1, 2018).

As indicated by Complainant, the website associated with the Disputed Domain Name resolves to an inactive website. Past panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding and for this purpose, the following factors should be taken into account: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.

See paragraph 3.3. of WIPO Overview.

As explained before, the Complainant's mark is indeed widely known – in particular after the candidature of Milano and Cortina d' Ampezzo for the 2026 Olympic Games was made official in August 1st, 2018 and by no replying to this Complaint, the Respondent did not show any evidence regarding the good faith to use the Disputed Domain Name. Furthermore, the Disputed Domain Name incorporates in full the trademark **MILANO CORTINA 2026®** with the only addition of the generic Top Level domain .live. This is a clear indication that the Respondent knew of or should have known of the Complainant's trademark and services at the time Respondent registered the Disputed Domain Name given the widespread use of Complainant's trademark to promote the Olympic and Paralympic Winter Olympic Games 2026. Thus, the finding of bad faith under the doctrine of passive holding can be applicable to the current case.

In light of the above-mentioned findings, the Panel finds that the evidence submitted by the Complainant supports the argument that by using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product.

Therefore, the Panel concludes that Respondent registered and is using the Disputed Domain Name in bad faith and thus has satisfied the requirement 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. **milanocortina2026.live**: Transferred

## PANELLISTS

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| Name | **Victor Garcia Padilla** |

DATE OF PANEL DECISION 2024-03-01

Publish the Decision