Decision for dispute CAC-UDRP-106378

Case number	CAC-UDRP-106378
Time of filing	2024-03-26 15:06:11
Domain names	golaaustraliashop.com, golabarcelona.com, golabudapest.com, gola-chile.com, golafactoryoutlet.com, golafootwearaustralia.com, golafootwearus.com, gola-francefr.com, golaindiashoes.com, gola-italia.com, golascarpeitalia.com, gola-schuhe-schweiz.com, golashoesisrael.com, golashoesparis.com, golashoesportugal.com, golashoesusawebsite.com, golasiteofficiel.com, golaskorsverige.com, golasneakersaustralia.com, golasneakersdames.com, golasneakersdanmark.com, golasneakersisrael.com, golasneakersph.com, golasneakerssverige.com, golasneakersuk.com, golasneakersus.com, golastockistsireland.com, golatrainerssaleuk.com, zapatillasgolaespana.com

Case administrator

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

Complainant

Organization	D. Jacobson & Sons Limited

Complainant representative

Organization	TLT LLP

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 has proved to own several trademark rights which can be traced back as early as 1905 such as GOLA. Examples are listed below:

- UK trademark registration n. UK00001097140 “GOLA”, dated June 14, 1978, and duly renewed, covering goods in class 18;
- UK trademark registration n. UK00000272980 “GOLA”, dated May 22, 1905, and duly renewed, covering goods in class 25;
- EU trademark registration n. 001909936 “GOLA”, dated October 4, 2000, and duly renewed covering goods in classes 18, 25 and 28;
- EU trademark registration n. 003399681 “GOLA”, dated October 8, 2003, and duly renewed, covering goods and services in classes 5, 10, 12 and 35;

- EU trademark registration n. 011567625 “GOLA”, dated February 12, 2013, and duly renewed, covering goods and services in classes 18, 25 and 35.

Complainant also owns the following domain names <gola.co.uk> registered in December 17, 1997, and <golausa.com>, registered on February 13, 2002.

The Complainant submitted the following documents to prove the abovementioned facts:

- Complainant’s trademarks registrations
- Complainant’s domain name
- Whois of the disputed domain names
- Website related to the disputed domain names

FACTUAL BACKGROUND

The Complainant, D. Jacobson & Sons Limited, 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, under the aforementioned domain names.

The Respondent registered the following disputed domain names:

- golaskorsverige.com; zapatillasgolaespana.com, registered on April 21, 2023;
- golasiteofficiel.com, registered on September 5, 2023;
- gola-chile.com; gola-italia.com, registered on September 18, 2023;
- golashoesparis.com, registered on October 12, 2023;
- golafactoryoutlet.com, registered on October 17, 2023;
- golatrainerssaleuk.com; golasneakersaustralia.com; golashoesusawebsite.com; golashoesisrael.com, registered on October 18, 2023;
- golabarcelona.com; golabudapest.com; golascarpeitalia.com; golasneakersdames.com; golasneakerssverige.com, registered on October 23, 2023;
- gola-schuhe-schweiz.com; golasneakersdanmark.com, registered on October 25, 2023;
- golaaustraliashop.com; golastockistsireland.com; golashoesportugal.com, registered on October 31, 2023;
- golafootwearaustralia.com, registered on November 27, 2023;
- gola-francefr.com, registered on January 13, 2024;
- golafootwearus.com; golaindiashoes.com; golasneakersisrael.com; golasneakersph.com; golasneakersuk.com; golasneakersus.com, registered on January 25, 2024.

  The aforementioned domain names resolve either to websites reproducing the Complainant’s genuine site, or to inactive pages.

PARTIES CONTENTIONS

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

Identity (paragraph 4(a)(i) of the Policy)

The Panel finds that the domain names are confusingly similar to the Complainant's GOLA trademarks.

Firstly, the Complainant's GOLA trademark is incorporated in the disputed domain names in its entirety. Secondly, in the Panel's opinion, the mere addition of a geographic term, such as "australia" or "chile" for instance, does not prevent the similarity between the Complainant's trademarks and the aforementioned domain names.

Similarly, the Panel finds that the addition of the designation of the branded GOLA products, such as "shoes", "footwear", "trainers" and "sneakers", or in various languages, "schuhe", "scarpe", "zapatillas" and "skor" are not sufficient to avoid any likelihood of confusion with the GOLA trademarks (CAC-UDRP-104707, August 12, 2022).

The Panel also finds that adding the word "dames" in the <golasneakersdames.com> domain name, refers to the targeted consumer of the products and does not exclude any likelihood of confusion.

The terms "website" or "official" added in the <golasiteofficiel.com> and <golashoesusawebsite.com> domain names do not exclude confusing similarity. The consumer would be led to believe that the websites they resolve to are genuine.

Finally, the addition of the words "factory", "stockist" or "outlet", which are generic terms relating to the Complainant's business, do not prevent a finding of confusing similarity between the disputed domain names (CAC-UDRP-105756, October 5, 2023).

Thus, the Panel finds that disputed domain names are confusing and do not provide additional specifications or sufficient distinction from the Complainant or its trademarks.

Absence of Rights or Legitimate Interests (paragraph 4(a)(ii) of the Policy)

The Complainant asserted that the Respondent has no legitimate interest in the infringing domain names. Indeed, the Complainant asserts that the Respondent has nothing to do with the Infringing Domains nor the Respondent.

More, the Complainant affirms that he did not authorize the Respondent to register the aforementioned domain names.

The Complainant also highlighted that the disputed domain names resolve to websites reproducing Complainant's genuine website, the GOLA trademarks and selling GOLA products. Therefore, the Panel finds that the Respondent did not intend to use the disputed domain names in connection with any legitimate purpose.

The Complainant also highlighted that the following disputed domain names, golaaustraliashop.com; golafootwearaustralia.com; gola-francefr.com; golaindiashoes.com; golascarpeitalia.com; golashoesusawebsite.com; golasneakersaustralia.com; golasneakersdanmark.com; golasneakersisrael.com; golasneakersph.com; golasneakersuk.com; golastockistsireland.com resolve to inactive pages.

In view of the use of the domain names that resolve to active websites reproducing the Complainant's trademarks, the inactivity of these domain name websites can only be illegitimate.

Therefore, the Panel finds that the Respondent did not intend to use the disputed domain names in connection with any legitimate purpose.

Finally, the Respondent had the opportunity to provide its arguments in support of its rights or legitimate interests in the disputed domain names. However, by failing to file a response, the Respondent has missed this opportunity and the Panel is entitled to draw such inferences from the Respondent's failure as it considers appropriate in accordance with Paragraph 14 of the Rules.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

Bad faith (paragraph 4(a)(iii) of the Policy)

In the light of the records, the Complainant showed the disputed domain names are consequently similar to GOLA trademarks. Moreover, the dates of registration, are well posterior to the registration of the GOLA trademarks.

Furthermore, the Panel finds that the Respondent cannot reasonably pretend he was intending to develop a legitimate activity through the disputed domain name. Indeed, the disputed domain names resolves to websites which either resolve to inactive pages, or imitate Complainant's genuine site.

Therefore, it is clear to the Panel that the Respondent was well aware of the GOLA trademarks and has registered the dispute domain names with the intention to refer to the Complainant and to its trademarks.

Furthermore, the panel finds that the Respondent has used the dispute domain names in bad faith, for the sole purpose to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademarks. Indeed, the disputed domain names resolve to websites imitating and selling Complainant's products for which the Complainant's trademarks are registered and used.

For all the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the domain names golaaustraliashop.com; golabarcelona.com; golabudapest.com; gola-chile.com; golafactoryoutlet.com; golafootwearaustralia.com; golafootwearus.com; gola-francefr.com; golaindiashoes.com; gola-italia.com; golascarpeitalia.com; gola-schuhe-schweiz.com; golashoesisrael.com; golashoesparis.com; golashoesportugal.com; golashoesusawebsite.com; golasiteofficiel.com; golaskorsverige.com; golasneakersaustralia.com; golasneakersdames.com; golasneakersdanmark.com; golasneakersisrael.com; golasneakersph.com; golasneakerssverige.com; golasneakersuk.com; golasneakersus.com; golastockistsireland.com; golatrainerssaleuk.com; zapatillasgolaespana.com; be transferred to the Complainant as requested in the Complaint.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **golaaustraliashop.com**: Transferred
2. **golabarcelona.com**: Transferred
3. **golabudapest.com**: Transferred
4. **gola-chile.com**: Transferred
5. **golafactoryoutlet.com**: Transferred
6. **golafootwearaustralia.com**: Transferred
7. **golafootwearus.com**: Transferred
8. **gola-francefr.com**: Transferred
9. **golaindiashoes.com**: Transferred
10. **gola-italia.com**: Transferred
11. **golascarpeitalia.com**: Transferred
12. **gola-schuhe-schweiz.com**: Transferred
13. **golashoesisrael.com**: Transferred
14. **golashoesparis.com**: Transferred
15. **golashoesportugal.com**: Transferred
16. **golashoesusawebsite.com**: Transferred
17. **golasiteofficiel.com**: Transferred
18. **golaskorsverige.com**: Transferred
19. **golasneakersaustralia.com**: Transferred
20. **golasneakersdames.com**: Transferred
21. **golasneakersdanmark.com**: Transferred
22. **golasneakersisrael.com**: Transferred
23. **golasneakersph.com**: Transferred
24. **golasneakerssverige.com**: Transferred
25. **golasneakersuk.com**: Transferred

26. **golasneakersus.com**: Transferred
27. **golastockistsireland.com**: Transferred
28. **golatrainerssaleuk.com**: Transferred
29. **zapatillasgolaespana.com**: Transferred

PANELLISTS

Name	**Nathalie Dreyfus**

DATE OF PANEL DECISION 2024-05-03

Publish the Decision