Decision for dispute CAC-UDRP-106313

Case number	CAC-UDRP-106313
Time of filing	2024-03-28 09:48:38
Domain names	mondoconvenienze.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Mondo Convenienza Holding S.p.A.

Complainant representative

Organization	Barzanò & Zanardo Milano S.p.A.

Respondent

Name	Mauro Rossi

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 bases its Complaint, among others, on the following trademarks:

- Italian national trademark “MONDO CONVENIENZA”, No. 0001609623, registered on 08 October, 2014, for goods in classes 9, 11, 20 and 21;
- European Union trademark “MONDO CONVENIENZA”, No. 002635704, registered on 17 June, 2003, for goods and services in classes 11, 20, 21, 35 and 39.

FACTUAL BACKGROUND

The Complainant is an Italian company, specialized in large-scale organized distribution of furniture and furnishing accessories at competitive and accessible costs.

Founded in 1985 by Giovan Battista Carosi in Civitavecchia, Lazio, Mondo Convenienza has established among the main home furnishings distributors in Italy.

In over 30 years of activities, it expanded its business all over Italy, opening new furniture shops in Tuscany, Abruzzo, Veneto, Piedmont, Lombardy, Emilia Romagna, Marche, Umbria, Puglia, Sicily, Campania and Sardinia, and lately expanding its business in

Spain.

Currently, the Complainant has more than 40 points of sales just in Italy and 3 in Spain, more than 4.000 employers, 6500 customers every day and 1.3 billion Euro of sales.

The Complainant is the owner of several trademarks for MONDO CONVENIENZA, such as the Italian national trademark “MONDO CONVENIENZA”, No. 0001609623, and the European Union trademark “MONDO CONVENIENZA”, No. 002635704, (both cited above).

The Complainant’s main point of contact online is the website https://www.mondoconv.it, the domain of which was registered in 2000. The domain name mondoconv.it (registered in 2000) as well as mondoconvenienza.com (registered in 2002) are registered in the name of IRIS MOBILI S.R.L., a company part of the group Mondo Convenienza.

The Complainant is also very active on social media networks, such as Facebook - https://www.facebook.com/mondoconv, page which has more than one million followers, Instagram - https://www.instagram.com/mondoconvenienza, page which has more than 506K followers, and YouTube - https://www.youtube.com/@mondoconvenienzatv, page which has more than 21K users.

The disputed domain name <mondoconvenienze.com> was registered on 08 November, 2023, through a privacy protect service, and, as per the evidence available in the file, at the time when the complaint was filed, the website associated with the disputed domain name redirected to an error parking page.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

The Complainant's contentions are the following:

The disputed domain name < mondoconvenienze.com> is confusingly similar to the Complainant's trademark MONDO CONVENIENZA, that the Respondent lacks rights or legitimate interests in the disputed domain name for a number of reasons and that the disputed domain name was registered and is being used in bad faith.

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

I. Confusing Similarity

The Panel agrees that the disputed domain name <mondoconvenienze.com> is confusingly similar to the Complainant's earlier trademark MONDO CONVENIENZA.

The Complainant's earlier trademark MONDO CONVENIENZA is recognizable within the disputed domain name, as the disputed domain name is composed by the words MONDO and CONVENIENZE, with the only difference constituted by the modification of the final letter of the trademark MONDO CONVENIENZA, namely “A” with the letter “E”, which in Italian, which could be the language of the two words, represent the difference between the singular and the plural form to the word CONVENIENZA.

A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Jurisprudential Overview 3.0”), point 1.9).

Moreover, the extension “.com” is not to be taken into consideration when examining the similarity between the Complainant’s trademark and the disputed domain name (WIPO Case No. D2005-0016, Accor v. Noldc Inc.). The mere adjunction of a gTLD such as “.com” is irrelevant as it is well established that the generic Top Level Domain is insufficient to avoid a finding of confusing similarity (WIPO Case No. 2013-0820, L’Oréal v Tina Smith, WIPO Case No. D2008-0820 Titoni AG v Runxin Wang and WIPO Case No. D2009-0877, Alstom v. Itete Peru S.A.).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

II. Lack of Respondent's rights or legitimate interests

The Complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of proof shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

Based on the available evidence, the Respondent does not appear to be known by the disputed domain name as such is not identified in the WHOIS database as the disputed domain name. The Respondent it is not linked in anyway with the Complainant. The Complainant has never authorised the Respondent to make use of its trademark, nor of a confusingly similar trademark in the disputed domain name.

The disputed domain name <mondoconvenienze.com> which is a common, obvious, or intentional misspelling of the Complainant's earlier trademark MONDO CONVENIENZA, was registered through a privacy protect service, and, as per the evidence available in the file, at the time when the complaint was filed, the website associated with the disputed domain name redirected to an error parking page.

All the above do not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name.

The Panel notes that the Respondent had an opportunity to comment on the Complaint’s allegations by filing a Response, which the Respondent failed to do.

Thus, the Panel is satisfied that the Complainant has at least established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

IIII. Bad Faith

Based on the available evidence, the Complainant's trademarks MONDO CONVENIENZA were registered prior to the disputed domain name. Therefore, the Panel concludes that at the time of registration of the disputed domain name, the Respondent was well aware of the Complainant’s earlier trademarks and has intentionally registered a typosquatting version of the Complainant’s MONDO CONVENIENZA trademark in order to create a confusion with such trademark.

In the present case, the following factors should be considered:

(i) the Complainant's trademarks predate the registration date of the disputed domain name;

(ii) the Respondent failed to submit any response and has not provided any evidence of actual or contemplated good faith use of the disputed domain name;

(iii) the Respondent registered the disputed domain name representing a typosquatting version of a registered MONDO CONVENIENZA trademark;

(iv) the Respondent has no business relationship with the Complainant, nor was ever authorised to use a domain name similar to the Complainant's trademark;

(vi) the disputed domain name was registered through a privacy protect service, and, as per the evidence available in the file, at the time when the complaint was filed, the website associated with the disputed domain name redirected to an error parking page.

Considering the above, in the Panel’s view, it is inconceivable that the Respondent is able to make any good faith use of the disputed domain name.

In light of the foregoing, the Panel concludes that the Respondent has registered and has been using the disputed domain name in bad faith. Thus, also the third and last condition under the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **mondoconvenienze.com**: Transferred

PANELLISTS

Name	**Delia-Mihaela Belciu**

DATE OF PANEL DECISION 2024-05-06

Publish the Decision