Decision for dispute CAC-UDRP-106442

Case number	CAC-UDRP-106442
Time of filing	2024-04-17 09:31:26
Domain names	berettafirearmstore.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Fabbrica d'Armi Pietro Beretta S.p.A.

Complainant representative

Organization	Barzanò & Zanardo Milano S.p.A.

Respondent

Organization	aretesteroids

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 several trademarks including the word BERETTA, such as:

- The EU word trademark BERETTA registered on 28 June 2011 under No. 9743543 for goods and services of the classes 8, 9, 13, 14, 18, 25, and 34;

- The international word trademark BERETTA registered on 7 July 1050 under No. 147879 for goods and services of the classes 8 and 13.

Moreover, the Complainant is also the owner, among others, of several domain names that include the word BERETTA, such as the domain name <beretta.com> registered on March 18, 1997.

FACTUAL BACKGROUND

According to the Complainant, Fabbrica d'Armi Pietro Beretta is a privately held Italian firearms manufacturing company operating in several countries. Founded in 1526, it is the oldest active manufacturer of firearm components in the world. Beretta Holding, the parent company, closed the year 2021 with EUR 958 million of revenue (of which EUR 250 million of Euro have been generated by Fabbrica d'Armi Pietro Beretta). The group has more than 3.380 employees, based not only in Europe but also in Australia, New

Zealand, Russia, Turkey, USA and China.

The disputed domain name <berettafirearmstore.com > was registered on 27 February 2022. The Complainant states that the website that is operated under the disputed domain name resolves to a web site using the BERETTA trademarks and images, and offering counterfeit products for sale.

PARTIES CONTENTIONS

The Complainant´s contentions are summarized below.

No administratively compliant Response has been filed.

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

The disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights

According to the Complainant, the disputed domain name incorporates in full the Complainant’s BERETTA trademarks. The Complainant asserts that the addition of the generic, non-distinctive and descriptive words “firearm” and “store” do not prevent the disputed domain name from being confusingly similar to its BERETTA trademarks.

The generic Top-Level Domain extension of the disputed domain name, in this case “.com”, is typically disregarded under the confusing similarity test, as it is a standard requirement for registration.

Therefore, the Complainant concludes, and the Panel agrees, that the disputed domain name is confusingly similar to the Complainant’s trademarks.

The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant asserts that the Respondent is not known by the disputed domain name.

The Complainant further states that the Respondent is not affiliated with, nor authorized or licensed by the Complainant to make any use of the Complainant’s trademark or apply for registration of the disputed domain name. In addition, the Complainant asserts that it does not carry out any activity for, nor has it any business with the Respondent.

The Panel finds that the Complainant has shown that the Respondent is not commonly known by the disputed domain name and

has not made legitimate use of the disputed domain name for a bona fide offering of goods or services. In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The disputed domain name was registered and is being used in bad faith

According to the Complainant, given the distinctiveness of the Complainant's trademarks and its worldwide reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademarks.

Moreover, the Complainant states that the structure of the disputed domain name in and of itself – incorporating the Complainant's well-known trademarks BERETTA followed by the terms "firearm" and "store" - reflects the Respondent's intention to create an association, and a subsequent likelihood of confusion, with the Complainant in Internet users' mind. In this regard, past panels have consistently found that the mere registration of a domain name that is confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (WIPO case No. D2023-0041, The Chemours Company v. chemours jhvjhvl, ljhvlhvh).

Furthermore, the Complainant demonstrates that the disputed domain name resolves to a web page offering Beretta products for sale at a very discounted price. Complaint is therefore certain that those could not be legitimate offers. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant's trademark, which constitutes evidence of bad faith.

In lack of any Response from the Respondent, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **berettafirearmstore.com**: Transferred

PANELLISTS

Name	**Tom Heremans**

DATE OF PANEL DECISION 2024-05-23

Publish the Decision