Decision for dispute CAC-UDRP-106446

Case number	CAC-UDRP-106446
Time of filing	2024-05-02 13:07:08
Domain names	notinosamplesale.shop, notinoperfume.shop

Case administrator

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

Complainant

Organization	NOTINO EUROPE LTD

Respondent

Name	an L

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 (the "Domain Names").

IDENTIFICATION OF RIGHTS

The Complainant is the owner of various EU registered trade marks that comprise or incorporate the term "Notino", including:

1. EU registered trade mark no 015221815 with a registration date of 28 June 2016 for NOTINO as a word mark in classes 16, 35, 38 and 39.
2. EU registered trade mark no 017471574 with a registration date of 9 March 2018 for NOTINO as a word mark in classes 35 and 41.
3. EU registered trade mark no 018537465 with a registration date of 11 December 2021 for Notino as a word mark in classes 3, 10 and 21.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

The Complainant is a company with its registered office in Nicosia, Cyprus and is the sole shareholder of Notino, s.r.o., reg. No.: 27609057, registered in the Czech Republic.

The Complainant's subsidiary is the holder of the domain name <notino.cz> and other variations (such as <notino.sk>, <notino.pl>, <notino.it>, <notino.dk>, <notino.ro> etc.), from which it runs e-shops with cosmetics, perfumes, and other related goods in almost all the European Union and also outside the EU. The network of Notino e-shops achieved in financial year 2022 turnover over 1 billion EUR.

The Domain Names were both registered on 12 December 2023.

The Domain Names have been used for e-shops offering cosmetics, perfumes and other related goods to customers. The e-shop websites analyse the User-Agent and, depending on the result, serve tailored content. As a result, although these e-shops are not

ordinarily visible using a computer browser, they can be accessed via a mobile phone.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the Domain Names should be transferred to it.
No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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

The Complainant has demonstrated trade mark rights for NOTINO and the Domain Names can most sensibly be read as that term combined with the ordinary words "sample" and "sale", or "perfume" and the ".shop" new gTLD. Accordingly, the Complainant's trade mark is clearly recognisable in each of the Domain Name. This is sufficient for a finding of confusing similarity under the Policy (see sections 1.7 of the WIPO Overview 3.0). The Complainant has, therefore, satisfied the requirements of paragraph 4(a)(i) of the Policy.

It is also clear that the Domain Names are being used for websites that sell products in competition with the Complainant. The Complainant characterises these as "fraudulent". What exactly is meant by this is not fully explained. However, it seems likely that what is being alleged is that these websites fraudulently impersonate the business of the Complainant and/or other companies within the Complainant's group. In this respect the Complainant provides a cropped screenshot of a webpage operating from one of the Domain Names which prominently displays the Complainant's mark and would be consistent with such a claim.

Further and in any event, the Panel accepts that each of the Domain Names also inherently impersonates the Complainant's business, comprising the Complainant's mark combined with ordinary words that do not inherently suggest that the Domain Names are operated by or connected with an entity unrelated to the Complainant. That this was and is deliberate, is also quite clear not just from the Domain Names themselves, but from the websites operating from the Domain Names.

There is no right or legitimate interest in registering and holding a domain name that deliberately impersonates or for the purposes of impersonating a trade mark holder and such registration and use is in bad faith. The Complainant has, therefore, satisfied the requirements of paragraphs 4(a)(ii) and (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. **notinosamplesale.shop**: Transferred
2. **notinoperfume.shop**: Transferred

PANELLISTS

Name	**Matthew Harris**

DATE OF PANEL DECISION 2024-06-08

Publish the Decision