Decision for dispute CAC-UDRP-106535

Case number	CAC-UDRP-106535
Time of filing	2024-05-30 09:11:59
Domain names	mondoconv.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	hongbo li

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 has demonstrated ownership of rights in the trademark MONDO CONVENIENZA for the purposes of standing to file a UDRP complaint.

The Complainant is the owner of several trademark registrations for MONDO CONVENIENZA, including the following, as per trademark registration details submitted in Annexes to the Complaint:

- Italian trademark registration No. 302014902275221 for MONDO CONVENIENZA (figurative mark), filed on July 2, 2014, and registered on October 8, 2014, last renewal of the trademark originally filed on August 3, 1994, and registered, with number 689185, on October 14, 1996, in classes 09, 11, 20 and 21;

- European Union trademark registration No. 002635704 for MONDO CONVENIENZA (figurative mark), filed on March 27, 2002, and registered on June 17, 2003, in classes 11, 20, 21, 35 and 39.

FACTUAL BACKGROUND

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

Founded in 1985 by Giovan Battista Carosi in Civitavecchia, Italy, the Complainant has established itself among the main home furnishings distributors in Italy, with more than 40 points of sales just in Italy, 3 in Spain, 4.000 employees, 6.500 customers every day and net sales of 1.3 billion Euro.

The Complainant is using the domain name <mondoconv.it> - registered, on March 22, 2000, in the name of IRIS MOBILI Srl, which is part of the MONDO CONVENIENZA group – to promote its products and services online.

The disputed domain name <mondoconv.com> was registered on June 19, 2011, and currently resolves to a pay-per-click page with sponsored links related to furniture and furnishing accessories. Such links redirect to the Complainant's official website at "www.mondoconv.it" and to third-party websites advertising and offering furniture for sale.

PARTIES CONTENTIONS

COMPLAINANT

The Complainant contends that the disputed domain name <mondoconv.com> is identical to its registered domain name <mondoconv.it> and confusingly similar to the trademark MONDO CONVENIENZA in which the Complainant has rights as it partially reproduces the trademark, omitting only the final part "enienza" of the mark.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name since the Respondent is in no way authorized by the Complainant to use its marks and is not commonly known by the disputed domain name.

The Complainant also submits that the Respondent is not using the disputed domain name in a legitimate non-commercial or fair manner, since he has used a typosquatted version of the Complainant's mark, which is simply composed by a fanciful combination of words, and has clearly registered the disputed domain name for the sole scope of misleading potential consumers, to tarnish the Complainant's trademark and prevent the Complainant from reflecting its trademark in a corresponding domain name.

Indeed, the Complainant underlines that the Respondent has also failed to use the disputed domain name in connection with a bona fide offering of goods or services, since he is using the disputed domain name to publish pay-per-click links related to MONDO CONVENIENZA, including links which redirect users to the Complainant's official website, whilst capitalizing on the reputation and goodwill of the Complainant's trademark.

The Complainant claims that the Respondent registered the disputed domain name in bad faith because: i) the disputed domain name is identical to the Complainant's domain name <mondoconv.it> and confusingly similar to its MONDO CONVENIENZA mark and ii) the disputed domain name is used for the publication of pay-per-click links that inter alia redirect to the Complainant's official website.

The Complainant further states that, due to the Complainant's world renown, it is highly unlikely that the Respondent was unaware of the Complainant at the time of registering the disputed domain name especially considering the Complainant's rights in the MONDO CONVENIENZA mark long predate the Respondent's registration of the disputed domain name.

Lastly, the Complainant contends that the Respondent acted in bad faith also because it concealed its identity by using a privacy service at the time of registering the disputed domain name and has been involved in a prior UDRP proceeding against a different complainant, using the same typosquatting technique. Considering the above, the Complainant submits that the Respondent may have also engaged in a pattern of such conduct since it registered another domain name corresponding to a third-party trademark.

RESPONDENT

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

1. The Complainant has provided evidence of ownership of valid trademark registrations for the figurative mark MONDO CONVENIENZA. The assessment of identity or confusing similarity involves a comparison between the disputed domain name and the textual components of the relevant mark. Indeed, since design elements are incapable of representation in domain names, these elements can be disregarded for purposes of this assessment. Therefore, the Complainant's trademark registrations with design elements satisfy the requirement that the Complainant show "rights in a mark" for assessment of identity or confusing similarity under paragraph 4(a)(i) of the Policy.

The Panel notes that the disputed domain name reproduces the most relevant portion of the Complainant's trademark, consisting of the wording "mondoconv", and that the omission of the last part of the trademark ("enienza") in the disputed domain name is not sufficient to prevent a finding of confusingly similarity.

As to the generic Top Level Domain ".com", as established in a number of prior UDRP cases, it is viewed as a standard registration requirement and as such can be disregarded for the purpose of assessing identity or confusing similarity.

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant's has established rights according to paragraph 4(a)(i) of the Policy.

2. With reference to the Respondent's rights or legitimate interests in the disputed domain name, the Panel finds that the Complainant has made a prima facie case and that the Respondent, by not submitting a Response, has failed to provide any element from which a Respondent's right or legitimate interest in the disputed domain name could be inferred.

The Panel notes that, based on the records, the Complainant has not authorized the Respondent to register and use its trademark MONDO CONVENIENZA. Moreover, there is no evidence that the Respondent might be commonly known by the disputed domain name or a name corresponding to the disputed domain name.

As highlighted above, the disputed domain name, confusingly similar to the Complainant's trademark, resolves to a pay-per-click page with sponsored links related to furniture and furnishing accessories, including links redirecting to the Complainant's website and to websites of competitors of the Complainant.

The Panel finds that the Respondent's use does not amount to a bona fide offering of goods or services or a legitimate non-commercial or fair use of the disputed domain name without intent to misleadingly divert the consumers or to tarnish the Complainant's trademark.

Therefore, the Panel finds that the Complainant has demonstrated that the Respondent has no rights or legitimate interests in respect of the domain name according to paragraph 4(a)(ii) of the Policy.

3. As to bad faith at the time of the registration, the Panel finds that, in light of the prior registration and use of the trademark MONDO CONVENIENZA in connection with the Complainant's furniture and furnishing accessories, promoted online via the Complainant's website "www.mondoconv.it", the Respondent was or could have been aware of the Complainant's trademark when it registered the disputed domain name. The identity of the disputed domain name with the Complainant's domain name <mondoconv.it> and the links related to furniture published on the corresponding website indeed suggest that the Respondent was well aware of the Complainant and intended to target the Complainant and its trademark.

In view of the Respondent's redirection of the disputed domain name to a pay-per-click page with sponsored links leading not only to the Complainant's official website but also to websites of the Complainant's competitors in the home furnishing sector, the Panel finds that the Respondent intentionally attempted to attract internet users to his website for commercial gain, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of his website, according to paragraph 4(b)(iv) of the Policy.

The Panel also finds that the Respondent's failure to file a Response and the fact that he has been involved in at least one prior UDRP case against different disputed domain names are further circumstance demonstrating the Respondent's bad faith.

Therefore, the Panel finds that the Complainant also demonstrated that the Respondent registered and is using the disputed domain name in bad faith according to 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. **mondoconv.com**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2024-07-12

Publish the Decision