Decision for dispute CAC-UDRP-106750

Case number	CAC-UDRP-106750
Time of filing	2024-07-30 09:33:30
Domain names	nanusmshop.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Nanushka International Zártkörűen Működő Részvénytársaság

Complainant representative

Organization	Oppenheim Ugyvedi Iroda

Respondent

Organization	GreenAmy

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 owns different registered NANUSHKA trademarks, including International trademark (device) NANUSHKA with registration number 1222798 of March 25, 2014 for goods in classes 14, 18 and 25, designated for, inter alia, the United States of America (the "U.S.") and International trademark (word) NANUSHKA with registration number 1628640 of October 29, 2021 for goods in classes 3, 9, 14, 18 and 25, designated for, inter alia, the U.S.

FACTUAL BACKGROUND

The Complainant is a Hungarian fashion company which was established in 2012, which collection is currently sold in about 140 stores worldwide. The Complainant also sells its products online via its website at "www.nanushka.com" and a handful of luxury e-commerce platforms.

The Respondent registered the disputed domain name on September 9, 2023. The disputed domain name resolves to a website which displays different trademarks of the Complainant, and offers the Complainant's products for sale against a fraction of the retail price, which products the Complainant alleges to be counterfeit products.

PARTIES CONTENTIONS

The Complainant alleges that the disputed domain name is confusingkly similar to its NANUSHKA trademark because the disputed domain name contains the first five letters of the Complainant's NANUSHKA trademark together with the letter "m" for "mobile" and "shop". Further, the Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name as the Complainant has never authorized the Respondent to register and/or use the disputed domain name. And according to the Complainant the disputed domain name was registered in bad faith because it has no generic or descriptive meaning, the Complainant's NANUSHKA trademark has a reputation and was registered years before the Respondent registered the disputed domain name. The Complainant also alleges that the disputed domain name has been used in bad faith because it is used for online sale of counterfeit products while clearly suggesting that the Complainant (or an affiliated dealer of the Complainant) is the source of the website, which does not correspond to reality.

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 Panel finds that the disputed domain name is confusingly similar to the NANUSHKA trademark, as the bigger first part of the trademark have been taken in its entirety in the disputed domain name, together with the letter "m", which undisputedly represents "mobile", and "shop", which additions do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's NANUSHKA trademark. In determining confusing similarity in these UDRP proceedings, the panel's conclusion below at 3 that the Respondent registered the disputed domain name precisely because it believed that the disputed domain name was confusingly similar to the Complainant's NANUSKHA trademark is decisive (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, par. 1.6).
2. The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent lacks rights or legitimate interests in the disputed domain name as it remains undisputed that the Respondent has not been authorized by the Complainant to use the Complainant's NANUSHKA trademark in the disputed domain name and on the website to which the disputed domain name resolves, and the Respondent's offering of the Complainant's counterfeit products for sale on the website under the disputed domain name does obviously not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.
3. The Panel infers from the facts that the disputed domain name resolves to a website which uses several of the Complainant's trademarks and copies images of products and models from the Complainant's official website, while undisputedly offering counterfeits of the Complainant's products for sale, that the Respondent must have had the Complainant's NANUSHKA trademark in mind when it registered the disputed domain name. Together with the

Respondent's exploitation of the disputed domain name to mimic the Complainant’s official website, and the undisputed allegation that the Respondent offers counterfeits of the Complainant’s products for sale, results in the Panel’s finding that the Respondent registered and used 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. **nanusmshop.com**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2024-09-03

Publish the Decision