Decision for dispute CAC-UDRP-106840

Case number	CAC-UDRP-106840
Time of filing	2024-09-12 10:10:54
Domain names	camesoldes.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	CAME S.p.A.

Complainant representative

Organization	Barzanò & Zanardo Milano S.p.A.

Respondent

Name	Kyle PBrowder

OTHER LEGAL PROCEEDINGS

Together with the domain name <camesolde.com>, the dispute domain name was subject to Case No. CAC-UDRP-106681. The Panel is this decision has rejected the Complainat's request for consolidation of the two domain names in a single UDRP procedure, because the panel did not find sufficient concrete evidence to establish that both domain names are subject to common control. The Panel in that case considered "It is, of course, open to the Complainant to bring a separate Complaint in respect of the Disputed Domain Name <camesoldes.com>, if it so desires". These proceecedings are the Complainant's refiling of its Complaint regarding the disputed domain name.

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 different trademark registrations for CAME, including:

- EU trademark CAME (device) with registration number 4112215 of January 12 2006 for goods in class 6, 7 and 9;
- International trademark CAME with registration number 1036432 of February 10, 2010 for goods in classes 6,7 and 9, designating, inter alia, the United States of America ("USA");
- International trademark CAME (device) with registration number 1408852 of April 13, 2017 for goods and services in classes 6, 7, 9, 19, 20, 35, 37, 38, 41, 42 and 45, designating, inter alia, USA.

FACTUAL BACKGROUND

The Complainant is a company active in the production and supply of technological solutions for the automation of residential, public and urban environments. The Complainant develops automation for entrances, home automation and anti-intrusion systems, video intercom systems, thermoregulation systems, parking management systems and access control and security systems in public environments.

The disputed domain name was registered on December 25, 2023, and redirects to a website in the French language that reproduces the Complainant's CAME device trademarks and part of the images of the Complainant's official marketing campaigns, and offers possible counterfeit CAME marked products for sale.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it. More particularly, the Complainant alleges that:

1. the disputed domain name is confusingly similar to the Complainant's CAME trademarks as it contains the CAME trademark combined with the French generic word "soldes" ("sales"in English);
2. the Respondent has no rights or legitimate interests in respect of the disputed domain name because the Respondent is not an authorized dealer, agent, distributor or reseller of the Complainant, and was not authorized to register and use the Complainant's CAME trademarks as part of the disputed domain name. Furthermore, the Complainant alleges that the Respondent registered and used the disputed domain name with the specific aim of misleading potential consumers in order to push consumers to purchase possible counterfeit CAME marked products;
3. the Respondent registered the disputed domain name in bad faith because the disputed domain name contains a well-known third party's trademark without any authorization by the holder; and
4. the disputed domain name has been used in bad faith because it redirects to a website that offers possible counterfeit CAME marked products, and unduly depicts copyrighted pictures taken from the Complainant's official website, which may cause, and has effectively caused, substantial damages to the Complainant and consumers. Further, the Complainant alleges that its image and reputation is strongly affected by the website under the disputed domain name , with the concrete risk that the goods offered for sale are counterfeit.

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 Complainant's CAME trademark, as the trademark have been taken in its entirety in the disputed domain name, together with the term "soldes" ("sales" in English), which addition does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's CAME 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 CAME 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 is not an authorized dealer, agent, distributor or reseller of the Complainant, and has not been authorized by the Complainant to use the Complainant's CAME trademarks 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 possible 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 shows the Complainant's CAME device trademark and copies images of products and marketing materials 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 CAME trademark in mind when it registered the disputed domain name. Together with the Respondent's exploitation of the disputed domain name to imitate 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. **camesoldes.com**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2024-10-08

Publish the Decision