Decision for dispute CAC-UDRP-106973

Case number	CAC-UDRP-106973
Time of filing	2024-10-21 10:14:48
Domain names	mothercaremall.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Mothercare Global Brand Limited
Organization	Mothercare UK Limited

Complainant representative

Organization	Stobbs IP Ltd

Respondent

Organization	Mother Care Mall

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 Complainants have proved to own the following trademark rights:

- UK trademark “MOTHERCARE” No UK00000855429 dated October 18, 1963, and duly renewed covering goods in class 20;
- UK trademark “ MOTHERCARE + LOGO ” No UK00000878023, dated April 8, 1965, and duly renewed, covering goods in class 25;
- UK trademark “ LOGO M ” No 00002485942, dated November 7, 2008, and duly renewed covering goods and services 3, 5, 8, 9-12, 16, 18, 20, 21, 24, 25, 27, 28, 35.
- UK trademark “MOTHERCARE” No 00003067655 dated December 19, 2014, covering goods and services in classes 3, 5, 9-12, 14, 16, 18, 20, 21, 24-29, 30, 35, 36, 39, 41;

The Complainants also owns several domains names, inter alia:

- <mothercareplc.com>;
- <mothercareplc.com>;
- <mothercare.co.uk>;
- <mothercare-stores.in>;

- <mothercare-supply.co.uk>.

FACTUAL BACKGROUND

The Complainants are the British companies Mothercare Global Brand Limited and Mothercare UK Limited. Mothercare Global Brand Limited holds ownership and control over the MOTHERCARE trademarks. For the past 70 years, the Complainants have operated under the MOTHERCARE trademarks, engaging in the design, sourcing, and distribution of products aimed at satisfying the needs of parents and young children.

The MOTHERCARE trademark made its retail debut with its first store in Surrey, UK, in 1961. The store initially offered a selection of pushchairs, nursery furniture, and maternity wear. Over the years, the product line expanded to include apparel for children up to five years old and later, for those up to eight years old.

The Complainant's website is https://www.mothercareplc.com/.

The Respondent has registered the disputed domain name <mothercaremall.com> on June 9, 2024, which resolved to a website offering children's apparel 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.

No administratively compliant Response has been filed.

RIGHTS

The Complainants have, 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 Complainants have rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainants have, 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 have, 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.

UDRP panel has articulated principles governing the question of whether a complaint filed by multiple complainants may be brought against one or more respondents. These criteria encompass situations in which: (i) the complainants either have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants' individual rights in a similar fashion; and (ii) it would be equitable and procedurally efficient to permit the consolidation. The burden of showing that consolidation is proper falls on the Complainants.

The Complainants have provided sufficient evidence to justify their consolidation. They share a common legal interest and grievance: Mothercare Global Brand holds ownership and control over the MOTHERCARE trademarks, while Mothercare UK Limited is the licensee.

PRINCIPAL REASONS FOR THE DECISION

Identity (paragraph 4(a)(i) of the Policy)

The Panel finds that the disputed domain name <mothercaremall.com> is confusingly similar to the Complainants' MOTHERCARE trademark.

Firstly, the Complainants' MOTHERCARE trademark is incorporated in the disputed domain name in its entirety.

Secondly, the addition of the generic term "mall" and the gTLD ".com" does not mitigate the likelihood of confusion. Furthermore, the Respondent sells products of the same nature and in the same sector as the Complainants'.

Thus, the Panel finds that disputed domain name is confusing and does not provide additional specification or sufficient distinction from the Complainants or their trademarks.

Absence of Rights or Legitimate Interests (paragraph 4(a)(ii) of the Policy).

The Panel finds that the Respondent has not been authorized or granted a license by the Complainants.

Additionally, the website of the disputed domain name resolves to is a competing webpage and may suggest an affiliation with the Complainants. Indeed, the Complainants' trademark is reproduced on the Respondent's website, without any authorization from the Complainants.

Therefore, the Panel finds that the Respondent did not intend to use the disputed domain name in connection with any legitimate purpose, nor did the Respondent show a bona fide offer of services.

Also, the Respondent had the opportunity to provide arguments supporting its rights or legitimate interests in the disputed domain name. However, by failing to file a response, the Respondent has missed this opportunity, and the Panel is entitled to draw such inferences from the Respondent's failure as it considers appropriate in accordance with Paragraph 14 of the Rules.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests with respect to the disputed domain name.

Bad faith (paragraph 4(a)(iii) of the Policy):

The Panel finds that the Respondent cannot claim ignorance of the well-known MOTHERCARE trademarks. Indeed, the Complainants have been offering products under this trademark since the 1960s, and the Infringing website prominently featured the MOTHERCARE trademark and logo. Furthermore, the Complainants maintain a significant presence on social media. Therefore, it is implausible that the Respondent was unaware of the Complainants' trademarks at the time of registration of the disputed domain name.

Finally, the Respondent uses the disputed domain name to offer identical or similar products to those of the Complainants' under the Complainants' trademark demonstrating a clear intent to capitalize on the Complainants' established reputation and goodwill. This behavior underscores the Respondent's deliberate attempt to emulate and profit from the Complainants' business model.

In the Panel's opinion, this shows that the disputed domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **mothercaremall.com**: Transferred

PANELLISTS

Name	**Nathalie Dreyfus**

DATE OF PANEL DECISION 2024-12-06

Publish the Decision