Decision for dispute CAC-UDRP-107110

Case number	CAC-UDRP-107110
Time of filing	2024-12-03 11:20:58
Domain names	c-and-a-brazil.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	COFRA AG

Complainant representative

Organization	Thomsen Trampedach GmbH

Respondent

Organization	Anna Herman

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 evidenced to be the owner of various trademark registrations relating to its C&A brand, including, but not limited to, the following with protection in Brazil:

- word/design trademark C&A, Instituto Nacional da Propriedade Industrial Brasil, registration No.: 923031650, registration date: April 19, 2022, status: active.

The disputed domain name was registered on January 8, 2024.

PARTIES CONTENTIONS

The Complainant:

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

The 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

First, the Panel finds that the disputed domain name is confusingly similar to the Complainant's C&A trademark, as it incorporates the latter in its entirety, simply substituting the ampersand by the word "and" and adding the geographic term "Brazil". Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark. Moreover, it has also been held in many UDRP decisions and has meanwhile become a consensus view among UDRP panels that the mere addition of geographic or other terms (such as e.g. the country name "Brazil") is not capable to dispel the confusing similarity arising from such entire incorporation of the Complainant's C&A trademark in the disputed domain name.

Therefore, the Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

Second, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither made use of, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services, nor is the Respondent commonly known under the disputed domain names, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain names without intent for commercial gain.

The Respondent is not affiliated with the Complainant, nor has it not been authorized to use the Complainant's C&A trademark, either as a domain name or in any other way. Also, there is no reason to believe that the Respondent's name somehow corresponds with the disputed domain name and the Respondent does not appear to have any trademark rights associated with the term "C&A" or "CandA" on its own. Finally, the Complainant has demonstrated that – at some point before the filing of the Complaint, e.g. on November 14, 2024 – the disputed domain name resolved to a website at "www.c-and-a-brazil.com" which offered clothing for online sale, thereby copying substantial parts from Complainant's official website (e.g. the colour scheme) and prominently displaying Complainant's C&A trademark without any authorization by the Complainant to do so. Such use of the disputed domain name, obviously in a fraudulent manner, neither qualifies as a bona fide nor as a legitimate noncommercial of fair use under the UDRP.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that, therefore, the Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

Finally, the Panel holds that the disputed domain name was registered and is being used by the Respondent in bad faith.

It is obvious from the circumstances to this case that the Respondent was well aware of the Complainant's business in the clothing industry and its rights in the undisputedly well-known C&A trademark (even in Brazil where Complainant undisputedly operates 300 clothing stores) when registering the disputed domain name, and that the latter is directly targeting the Complainant and its trademark. Moreover, resolving the disputed domain name to a website which offered clothing for online sale, thereby copying substantial parts from Complainant's official website (e.g. the colour scheme) and prominently displaying Complainant's C&A

trademark without any authorization by the Complainant to do so, leaves no doubts that the Respondent, by registering and using the disputed domain name, had the intention to somehow unjustifiably profit from the undisputed reputation attached to the Complainant's C&A trademark, and, thus, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's C&A trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's own website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Therefore, the Complainant has also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **c-and-a-brazil.com**: Transferred

PANELLISTS

Name	**Stephanie Hartung**

DATE OF PANEL DECISION 2025-01-14

Publish the Decision