Decision for dispute CAC-UDRP-107272

Case number	CAC-UDRP-107272
Time of filing	2025-02-03 17:31:30
Domain names	frateiiiberettausa.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Salumificio Fratelli Beretta S.P.A

Complainant representative

Organization	Giorgio Gazzola

Respondent

Name	James Henderson

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

Among others, the Complainant is the owner of the following registered trademark:

United States of America Registered Trademark Number 2178516 for the device and word mark FRATELLI BERETTA 1812, registered on August 4, 1998 in Classes 29 and 30.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is an Italian company established in 1812, specializing in cured meats and charcuterie, and producing a range of Italian products including prosciutto, salami, and pancetta. The Complainant represents its business online through a website using the domain name <fratelliberetta.com> (registered on February 20, 1999), and maintains a designated website for its presence in the United States of America using the domain name <fratelliberettausa.com> (registered on May 25, 1999). The Complainant's "Fratelli Beretta" brand has become highly recognized, in particular due to its multiple sponsorships in the sports sector, including Italian football teams Torino FC, Juventus, Inter Milan, and AC Milan, as well as English Premier League team Everton. The Complainant's brand also supports the Italian national handball team and teams in basketball and volleyball.

The Complainant is the owner of registered trademarks for the mark FRATELLI BERETTA 1812, including that noted in the Identification of Rights section above.

According to the corresponding record, the disputed domain name was registered on January 20, 2025. There is no active website associated with the disputed domain name. The Respondent appears to be a private individual with an address in the United States of America.

PARTIES CONTENTIONS

Complainant:

The disputed domain name is confusingly similar to the Complainant's trademark in that it incorporates a common, obvious, or intentional misspelling of such trademark, while retaining sufficiently recognizable elements of the mark. The disputed domain name also mimics the Complainant's official domain name for its website in respect of its United States of America presence. The disputed domain name substitutes the letter "i" for the similar appearing letter "l" in two characters to create a likelihood of confusion via a subtle misspelling. The addition of the term "usa" in the disputed domain name references the Complainant's activities in the United States of America.

There is no evidence that the Respondent has used, or made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services before notice to it of the dispute. The Respondent is neither commonly known by the disputed domain name nor holds any trademark corresponding thereto. The Complainant has not granted any license or authorization to the Respondent to use the Complainant's said trademark, or to apply for registration of the disputed domain name. The disputed domain name incorporates an intentional typographical variation of the Complainant's trademark, designed to confuse users and exploit the Complainant's goodwill. The inactive or potentially harmful state of the disputed domain name reinforces the conclusion that the Respondent lacks any legitimate purpose for its registration or use. The disputed domain name includes the letters "usa" referring to the Complainant's activities in the United States of America and creating a false impression of affiliation.

Bad faith can be found under the Policy in circumstances where the disputed domain name is being passively held, given the distinctiveness and reputation of the Complainant's trademark, the lack of response from the Respondent, and the lack or implausibility of any actual or contemplated good faith use of the disputed domain name by the Respondent. The inactivity of the disputed domain name coupled with the status of the Complainant's mark indicates bad faith on the Respondent's part. It is inconceivable that the disputed domain name could have been registered without knowledge of the Complainant and its rights due to the typographical variation of the Complainant's mark therein and the fact that a corresponding Google search discloses the Complainant's interests (evidence provided).

The registration of the disputed domain name, being a clear typographical variant of the Complainant's trademark, suggests an intent to mislead users into believing that there is an affiliation with the Complainant. This tactic, commonly referred to as "typosquatting", is inherently deceptive and constitutes bad faith use. The Respondent's choice to conceal its identity through a privacy shield further evidences bad faith when combined with other factors such as the well-known status of the Complainant's trademark and the lack of any conceivable legitimate use of the disputed domain name. The Respondent has contravened paragraph 4(b)(iv) of the Policy. The Respondent has violated the terms of its undertaking under paragraph 2 of the Policy due to its registration of a typosquatted domain name. The inactive nature of the disputed domain name causes unfair detriment to the Complainant.

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

The Complainant has demonstrated to the Panel's satisfaction that it has UDRP-relevant rights in its FRATELLI BERETTA 1812 trademark by virtue of the registered trademark listed above. The said mark is a combined figurative and word mark, and the textual element is readily severable from the graphical element (on this topic, see the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.10).

The Second-Level Domain of the disputed domain name is a typographical variant of such mark were where the similarly appearing letter "i" has been substituted for the letter "l" in two characters. Notwithstanding the spelling variation, the Panel considers that the FRATELLI BERETTA element of the Complainant's mark, being a dominant feature, is fully recognizable in the disputed domain name based upon a straightforward side-by-side comparison. The removal of the 1812 element and the addition of the "usa" element do not serve to distinguish the disputed domain name from the mark. The generic Top-Level Domain in respect of the disputed domain name, namely ".com", is typically disregarded for the purposes of the comparison under the first element analysis of the Policy. In these circumstances, the Panel finds that the disputed domain name is confusingly similar to the Complainant's FRATELLI BERETTA 1812 trademark.

With regard to the second element of the Policy, the Complainant asserts that it has no relationship with the Respondent and has not licensed or otherwise authorized it to use its trademark in the disputed domain name. There is no evidence before the Panel indicating that the Respondent is commonly known by the disputed domain name. The Panel finds that the disputed domain name amounts to a typographical variant of the Complainant's FRATELLI BERETTA 1812 mark, which seems to be designed to appear like the domain name of the Complainant's official website for its activities in the United States of America, namely <fratelliberettausa.com> noting here the fact that both contain the qualifying term "usa". The Complainant's said domain name for its official website itself corresponds to the Complainant's trademark.

The Panel finds that the Complainant's various contentions, taken together, are sufficient to constitute the requisite prima facie case that the Respondent has no rights and legitimate interests in the disputed domain name (see, for example, WIPO Overview 3.0, section 2.1). In particular, the Panel accepts that the disputed domain name is more probably than not a typosquatted or intentionally registered typographical variant of the Complainant's trademark, which is intended to take unfair advantage of Internet users' errors in misperceiving the disputed domain name as the Complainant's mark and the Complainant's official domain name for its website relating to its presence in the United States of America.

The Panel finds on the balance of probabilities that the disputed domain name has been registered and is being used for the purposes of typosquatting. Ultimately, the disputed domain name has been used for confusing the public into believing that it is associated with the Complainant when it is not. This cannot confer rights and legitimate interests upon the Respondent.

The Respondent has not replied to the Complainant's allegations and evidence in this case, and has failed to set out any alleged rights or legitimate interests which it might have claimed in the disputed domain name. There are no submissions or evidence on the record which might serve to rebut the Complainant's prima facie case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

As noted in the consideration of the rights and legitimate interests' topic, the disputed domain name appears to the Panel to be an intentionally designed typosquatting variant of the Complainant's trademark and mimics one of its official domain names. The evidence before the Panel shows that the Complainant's mark is of a longstanding nature, significantly pre-dating the date of registration of the disputed domain name, and is well-known, in particular due to the Complainant's extensive and prominent sporting sponsorships. Said mark is in widespread use where the Respondent is based, not least in connection with the Complainant's official domain name, <fratelliberettausa.com>. The disputed domain name is clearly intended to imitate this domain name. In these circumstances, it is entirely reasonable to infer that the disputed domain name was registered by the Respondent with knowledge of the Complainant and its rights, and with an intent to target these unfairly. Consequently, there appears to the Panel to be no possible good faith reason for the Respondent to have selected the disputed domain name, and there are demonstrable indications of bad faith present in this case.

There is no website at the disputed domain name. Accordingly, it is being "passively held". Such passive holding does not allow the Respondent to escape a finding of registration and use in bad faith in circumstances where, as here, the disputed domain name is confusingly similar to the Complainant's well-known mark (coupled with a word denoting a location where the Complainant maintains a presence), where the Respondent has failed to submit a Response or otherwise to provide any evidence of actual or contemplated good faith use, and it is implausible that the disputed domain name could be put to any such good faith use if the corresponding website were to become active (see, on this topic, Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case

No. D2000-0003).

In all of these circumstances, the Panel considers that the Complainant has made out a sufficient case of registration and use in bad faith. The Respondent has not filed a Response in this case and therefore has not addressed the Complainant's assertions of bad faith registration and use to any extent. No explanation has been presented by the Respondent that might have suggested that its actions regarding the disputed domain name were in good faith.

The Panel therefore finds that the disputed domain name has been 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. **frateiiiberettausa.com**: Transferred

PANELLISTS

Name	**Andrew Lothian**

DATE OF PANEL DECISION 2025-02-27

Publish the Decision