

Decision for dispute CAC-UDRP-107253

Case number CAC-UDRP-107253

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Domain names ospreyjapanstore.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization Osprey Parks, Inc.

Complainant representative

Organization Coöperatie SNB-REACT U.A.

Respondent

Name Kendresi Izeree

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 is the owner, among others, of the following trademarks for OSPREY:

- International registration 1049358 also designating Japan, granted on August 16, 2016 and covering classes 12, 18 and 21;
- International registration 1074730 also designating Japan, granted on August 18, 2016 and covering classes 12, 18 and 21;

The Complainant also owns the domain name <osprey.com> since 1999.

FACTUAL BACKGROUND

The Complainant states that it is a leading manufacturer of outdoor backpacks, operating since 1974 under the OSPREY brand.

The Complainant further states that it is the owner of the OSPREY trademark since 2002.

The disputed domain name was registered on April 8, 2024 and it used to resolve to an online store website where multiple goods were supposedly being offered for sale and the Complainant's "OSPREY" figurative trademark was prominently featured at the top of the page.

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 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, 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).

The disputed domain name <ospreyjapanstore.com> is confusingly similar to the Complainant's OSPREY trademark, as it incorporates the latter in its entirety, with the addition of the terms "Japan" and "Store", both clearly descriptive/suggestive.

Not only the addition of generic/geographical terms is not, per se, a distinguishing feature, but it may even to the contrary be apt to increase confusion since users could believe that the disputed domain name is used by the Complainant or, at least, by a Complainant's affiliated entity (see Facebook Inc. v. Naija Host, WIPO Case No. D2015-1057).

Accordingly, the Panel finds that the Complainant has proven the first element of the Policy.

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).

According to the WIPO case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd., a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

In this case at hand, the Respondent is not affiliated with the Complainant nor authorized by it in any way to use the OSPREY trademark. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Also considering that the Respondent did not reply to the Complainant's contentions, the Panel finds that the Complainant has proven the second element of the Policy.

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name.

Indeed, given the distinctiveness of the Complainant's trademark, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's OSPREY registrations. Please see for instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.

The Complainant has specifically argued that bad faith exists pursuant to, inter alia, paragraph 4(b)(iv) of the Policy because the website associated with the disputed domain name used to resolve to an unauthorized commercial website supposedly offering for sale OSPREY articles and bearing the Complainant's figurative trademark at the top of the page. Furthermore, the disputed domain name has been used by the Respondent to divert Internet traffic to another website (<https://www.ospjpsale.com>) displaying the same contents including the OSPREY trademark on the top of the page and the same branded goods being offered for sale as those on the website it used to resolve to.

The Panel does agree, since it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate, such as by being a passing off attempt.

Accordingly, the Panel finds that the Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ospreyjapanstore.com**: Transferred

PANELLISTS

Name	Tommaso La Scala
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DATE OF PANEL DECISION **2025-03-08**

Publish the Decision
