

Decision for dispute CAC-UDRP-107295

Case number **CAC-UDRP-107295**

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Domain names **pataugasenligne.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **V.G.M Holding**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Organization **GerberMary**

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or concluded legal proceedings pertaining to the domain name <pataugasenligne.com> ('the disputed domain name').

IDENTIFICATION OF RIGHTS

V.G.M Holding ('the Complainant') asserts its rights to the following registered trade marks:

- International trade mark registration no. 1424305, registered on 18 May 2018, for the word mark PATAUGAS, in classes 18, 25, and 35 of the Nice Classification;
- International trade mark registration no. 940767, registered on 21 August 2007, for the figurative mark PATAUGAS, in class 25 of the Nice Classification; and
- International trade mark registration no. 457031, registered on 17 December 1980, for the figurative mark PATAUGAS, in classes 9 and 25 of the Nice Classification.

These marks shall be collectively referred to as 'the Complainant's trade mark' or 'the trade mark PATAUGAS'. Furthermore, the Complainant holds multiple domain names featuring the term 'pataugas', including <pataugas.com>, registered on 24 November 1999.

The disputed domain name <pataugasenligne.com> was registered on 29 March 2024 and currently resolves to an online store that offers clothing and accessories under the trade mark PATAUGAS at discounted prices (referred to as 'the Respondent's website').

FACTUAL BACKGROUND

A. Complainant's Factual Allegations

The Complainant is a French company and the proprietor of the trade mark PATAUGAS, established in 1950 in the Basque region of France, renowned for its outdoor footwear.

B. Respondent's Factual Allegations

The Respondent has failed to submit a Response in this UDRP administrative proceeding, thereby rendering the Complainant's allegations uncontested.

PARTIES CONTENTIONS

A. Complainant's Submissions

The Complainant's submissions may be summarised as follows:

A.1 The disputed domain name is confusingly similar to a trade mark in which the Complainant has rights

The Complainant argues that the disputed domain name is identical to the Complainant's trade mark and its associated domain name, as it wholly incorporates the Complainant's trade mark without any alteration. The addition of the French phrase 'en ligne' (meaning 'online' in English) does not sufficiently distinguish the disputed domain name from the Complainant's trade mark. The Complainant further contends that the addition of the generic Top-Level Domain ('the TLD') <.com> does not affect the overall impression or likelihood of confusion regarding the Complainant's trade mark. In accordance with paragraph 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ('the WIPO Jurisprudential Overview 3.0'), the TLD is regarded as a standard registration requirement and is therefore disregarded in the context of confusing similarity. Thus, the disputed domain name is deemed confusingly similar to the Complainant's trade mark.

A.2 The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent does not identify itself by the disputed domain name, and past UDRP panels have held that a respondent was not commonly known by a domain name if the Whois information is not similar to the domain name.

The Complainant further states that it has no affiliation with, or authorisation granted to, the Respondent regarding the disputed domain name. There exists no license or permission for the Respondent to utilise the trade mark PATAUGAS or apply for registration of the disputed domain name. The use of the disputed domain name to disrupt the Complainant's business and impersonate the Complainant demonstrates a clear lack of rights or legitimate interests.

A.3 The Respondent registered and is using the disputed domain name in bad faith

The Complainant posits that the disputed domain name contains the distinctive trade mark PATAUGAS, which has been established for many years and holds no generic or descriptive significance. The Respondent's awareness of the trade mark PATAUGAS and intent to create confusion via impersonation of the Complainant constitutes bad faith, as previously established in previous UDRP decisions. Additionally, redirecting to a competing online store undermines the Complainant's business.

The Complainant further asserts that utilising a domain name to offer competing services is often regarded as disruptive and indicative of bad faith. In this context, the Complainant concludes that the Respondent has intentionally sought to attract, for commercial gain, Internet users by leveraging the Complainant's trade mark, thereby creating confusion regarding the source, sponsorship, affiliation, or endorsement of the Respondent's website, as articulated in paragraph 4(b)(iv) of the UDRP Policy.

Based on these assertions, the Complainant concludes that the Respondent has registered and continues to use the disputed domain name in bad faith.

B. Respondent's Submissions

The Respondent has defaulted in this UDRP administrative proceeding, failing to advance any substantive defence.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the UDRP 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 UDRP 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 UDRP Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under the UDRP have been met, with no grounds to delay the decision.

PRINCIPAL REASONS FOR THE DECISION

A. Applicable Legal Framework

Pursuant to Rule 15 of the UDRP Rules, the Panel shall determine the case based on the statements and documents submitted, alongside the UDRP Policy, UDRP Rules, and any pertinent rules and principles of law.

Under paragraph 4(a) of the UDRP Policy, the burden rests upon the Complainant to establish three essential elements for a successful claim:

- i. The disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- ii. The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- iii. The disputed domain name has been registered and is being used in bad faith.

These elements shall be referred to as 'the requirements of the UDRP Policy'. The standard of evidence in UDRP administrative proceedings is the balance of probabilities. The Panel shall assess each requirement in turn.

B. Identical or Confusingly Similar

The Panel finds that the disputed domain name <pataugasenligne.com> wholly incorporates the Complainant's trade mark PATAUGAS, with the term 'en ligne' – meaning 'online' in English – as the sole addition. This minor modification fails to diminish the likelihood of confusion, as the presence of the term 'pataugas' creates a strong association with the Complainant's goods. Prior UDRP jurisprudence unequivocally asserts that descriptive or generic additions do not alleviate the potential for confusion among Internet users under this UDRP Policy test (see, for instance, paragraph 1.8 of the WIPO Jurisprudential Overview 3.0). Accordingly, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trade mark, satisfying the first requirement of the UDRP Policy.

C. Rights or Legitimate Interests

The evidence presented clearly indicates that the Respondent is not commonly known by the disputed domain name. Furthermore, the absence of any affiliation or authorisation from the Complainant substantiates the assertion that the Respondent has no rights or legitimate interests regarding the disputed domain name. The Respondent's conduct appears intentional, aimed at disrupting the Complainant's legitimate business operations, thereby fulfilling the second requirement of the UDRP Policy.

D. Registered and Used in Bad Faith

The Panel concludes that the Respondent's registration and use of the disputed domain name demonstrate bad faith. The Respondent's evident awareness of the Complainant's rights, combined with actions that create a risk of unwarranted affiliation with the Complainant and directly compete with its offerings by selling goods at reduced prices, strongly suggests an intent to mislead Internet users. Such conduct corresponds with the provisions specified in paragraph 4(b)(iv) of the UDRP Policy. In light of this assessment, the Panel finds that the Complainant has satisfied the third and final requirement of the UDRP Policy.

E. Decision

For the above reasons, in accordance with paragraph 4(a) of the UDRP Policy and Rule 15 of the UDRP Rules, the Panel orders that the disputed domain name <pataugasenligne.com> be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **pataugasenligne.com**: Transferred

PANELLISTS

Name	Gustavo Moser
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DATE OF PANEL DECISION	2025-03-12
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Publish the Decision
