Decision for dispute CAC-UDRP-107331

Case number	CAC-UDRP-107331
Time of filing	2025-03-31 10:37:47
Domain names	chiarabonisale.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Chiara Boni & Sons S.r.l.

Complainant representative

Organization	Barzanò & Zanardo S.p.A.

Respondent

Name	Barbara Ilglesias

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 states that It is the owner of the following trademark registrations:

- EUTM “CHIARA BONI LA PETITE ROBE” No. 014671689, registered on 9 March 2016, for the goods and services in classes 3, 18, 25 and 35;
- International registration “CHIARA BONI La Petite Robe“ No. 1286255, registered on 15 October 2015, for the goods and services in classes 3, 18, 25 and 35;
- Italian registration “CHIARA BONI, la petite Robe” No. 2015000060159, registered on 26 October 2018, for the goods and services in classes 3, 18, 25 and 35;
- Chinese registration “CHIARA BONI” No. 5570767, registered on 14 October 2009, for the goods in class 25.

The Complainant proved Its ownership of the named trademark registrations by the submitted extracts from the EUIPO and TMView databases.

FACTUAL BACKGROUND

The Complainant is an Italian fashion company producing clothes and luxury goods, founded in 1980’s. The Complainant’s business activities reach customers around the world through online markets, social media or international fashion parades.

The Complainant is very attentive to the protection of Its intellectual property rights and proceeded with the filing and registration of its trademarks, in multiple classes of goods and services and all over the world

The Complainant owns, among others, the domain name <chiaraboni.com>, registered since 2011, which is used as the main website of the Complainant.

The disputed domain name <chiarabonisale.com> (hereinafter “disputed domain name”) was registered on 3 January 2025. According to the Registrar, the Respondent is ‘Barbara IIglesias’. The Respondent provided an address as being in the USA.

PARTIES CONTENTIONS

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

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 UDRP).

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).

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).

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

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant. Therefore, the Panel proceeds to decide only on the basis of the Complainant’s factual statements and the documentary evidence provided in support of them [Paragraph 5(f) of The Rules].

1. CONFUSING SIMILARITY

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks.

The WIPO Overview 3.0 in Paragraph 1.2.1 states: “Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case”.

The WIPO Overview 3.0 in Paragraph 1.7 states: “[…] in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.”

The WIPO Overview 3.0 in Paragraph 1.8 states: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”

In the present case, the Complainant has established that it owns numerous regional and international trademark registrations for the “CHIARA BONI” wording, protected for the classes in connection with, among other, clothing (proved by the extracts from the EUIPO and TMView databases).

The disputed domain name <chiarabonisale.com> contains the main part of the Complainant’s trademarks “CHIARA BONI” (without the ending “la petite robe”) in its entirety, with the mere addition of the general term “sale”. The addition of this general term cannot prevent a finding of confusing similarity.

The disputed domain name is considered to be confusingly similar to the relevant trademarks.

The “.com” element of the disputed domain names does not affect the finding of confusing similarity.

As a result, the Panel finds that the Complainant has satisfied Paragraph 4(a)(i) of the UDRP.

2. THE RESPONDENT´S LACK OF RIGHTS OR LEGITIMATE INTEREST IN THE DISPUTED DOMAIN NAME

The Panel finds that the Respondent lacks rights or legitimate interest in the disputed domain name.

According to Paragraph 4(a)(ii) of the UDRP, the Complainant shall make a case that the Respondent lacks rights and legitimate interests in the disputed domain name. If the Complainant fulfils this demand the burden of proof shifts to the Respondent and so the Respondent shall demonstrate rights or legitimate interests in the disputed domain name. If the Respondent fails to prove its rights or legitimate interests, it is assumed that the Complainant satisfied the element of Paragraph 4(a)(ii) of the UDRP (see CAC Case No. 102430, Lesaffre et Compagnie v. Tims Dozman). Moreover, past panels were of the view that it is difficult or sometimes impossible to prove negative facts, i.e., absence of rights or legitimate interest on the part of the Respondent. In this respect, past panels referred to the WIPO Case No. D2000-1769, Neusiedler Aktiengesellschaft v. Vinayak Kulkarni. Within the meaning of Paragraph 4(a)(ii) of the Policy, once the complainant has made something credible (prima facie evidence), the burden of proof shifts to the Respondent to show that he has rights or legitimate interests in the domain name at issue by providing concrete evidence.

The WIPO Overview 3.0 in Paragraph 2.5.1 states: “Generally speaking, UDRP panels have found that domain names identical to a complainant’s trademark carry a high risk of implied affiliation.“

In the Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com>, the Panel stated that: “Here, the WHOIS information of record identifies Respondent as ‘Chad Moston / Elite Media Group.’ The Panel therefore finds under Policy ¶ 4(c) (ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c) (ii).”

In the present case, the Complainant claims that it has no relationship with the Respondent. The Respondent has never received any approval from the Complainant, expressed or implied, to use Its trademarks or any other mark identical or confusingly similar to such marks, nor to register any domain name identical or confusingly similar to such marks.

The Complainant submitted a screenshot of the website under the disputed domain name, which shows that the disputed domain name is actively used. The Complainant suggests that the disputed domain name is used to impersonate the “CHIARA BONI” brand and its official website by publishing Its trademarks, official images and content, without any authorization. The Complainant claims that the corresponding website offers for sale clearly counterfeit “CHIARA BONI” products which are offered for sale at much discounted prices. Such an act might suggest the intention of confusing Internet users about the owner of the website. In that case, no rights or legitimate interest can be stated.

Furthermore, the Respondent is not identified in the submitted WHOIS information. As a result, the Respondent cannot be known under the disputed domain name.

To the satisfaction of the Panel, the Complainant made a prima facie case that there is no connection between the Complainant and the Respondent and that the Respondent does not have authorization in the disputed domain name from the Complainant. The content of the website and the absence of identification in the WHOIS information support this finding.

The Respondent did not file any Response to the Complaint. Thus, the Respondent failed to demonstrate rights or legitimate interest in the disputed domain name.

Therefore, the Panel finds that the Complainant has satisfied the requirement under Paragraph 4(a)(ii) of the UDRP.

3. THE REGISTRATION AND USE OF THE DISPUTED DOMAIN NAME IN BAD FAITH

The Panel finds that the Respondent registered and used the disputed domain name in bad faith.

The WIPO Overview 3.0 in Paragraph 3.1.4 states: “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith […] Panels have moreover found the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent’s commercial benefit, even if unsuccessful, (iii) the lack of a respondent’s own rights to or legitimate interests in a domain name, (iv) redirecting the domain name to a different respondent-owned website, even where such website contains a disclaimer, (v) redirecting the domain name to the complainant’s (or a competitor’s) website, and (vi) absence of any conceivable good faith use.“

In the present case, the Complainant has established that it owns numerous regional and international trademark registrations for the “CHIARA BONI” wording, protected for the classes in connection with, among others, clothing (proved by the extracts from the EUIPO and TMView databases).

Above, the disputed domain name was found confusingly similar to the Complainant’s trademarks. This finding supports the bad faith of the Respondent.

From the submitted information about the Complainant and Its trademarks, it is obvious that the Complainant has a certain reputation worldwide. The business activities of the Complainant date back to the 1980’s.

As was proved by the furnished screenshot of the website under the disputed domain name, the disputed domain name leads Internet users to the “CHIARA BONI” mirror page. Without any authorization, the Respondent is using the “CHIARA BONI” trademarks, official images and design on the website. As the Complainant suggested, because of the discounted prices, the offered products might be counterfeit. This activity supports the finding that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website, by creating a likelihood of confusion with the Complainant and Its trademarks

The Respondent must have been aware of the Complainant and Its trademarks at the moment of registering the disputed domain name on 3 January 2025.

Thus, it might be concluded that the Respondent did not register and is not using the disputed domain name in good faith.

Following the above-mentioned, the Panel finds that the Complainant has satisfied conditions pursuant to Paragraph 4(a)(iii) of the UDRP.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **chiarabonisale.com**: Transferred

PANELLISTS

Name	**Radim Charvát**

DATE OF PANEL DECISION 2025-04-29

Publish the Decision