Decision for dispute CAC-UDRP-107452

Case number	CAC-UDRP-107452
Time of filing	2025-04-02 11:39:17
Domain names	nanushkal.shop

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Nanushka International Zártkörűen Működő Részvénytársaság

Complainant representative

Organization	Oppenheim Ugyvedi Iroda

Respondent

Name	WeiLai Chen

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 of various NANUSHKA trademark registrations, registered in various countries worldwide, including the following:

- NANUSHKA (stylized), European Union trademark registration No. 012504767, registered on 15 February 2015, for goods in classes 14, 18 and 25;

- NANUSHKA (stylized), International trademark registration No. 1222798, registered on 25 March 2014, for goods in classes 14, 18 and 25, designating various jurisdictions worldwide, including the United States of America ("USA"), and China.

FACTUAL BACKGROUND

The Complainant, Nanushka International Zrt. is a Hungarian company established in 2012. The Complainant operates in the field of ready-to-wear collections and accessories for women and men and trades under its commercial name and trademark NANUSHKA. Nanushka is the childhood nickname of the founder and head designer of the Complainant, Ms. Sandra Sandor. Her collections are currently sold in more than 140 physical stores worldwide, including Le Bon Marché, La Rinascente, Nordstrom, Saks Fifth Avenue and Neiman Marcus. Moreover, the Complainant's products are available online through the Complainant's website at https://www.nanushka.com, and in some luxury e-commerce platforms, such as Farfetch, MyTheresa, Browns, Matches Fashion

and Net-a-Porter.

The Respondent is allegedly located in the USA and bears a Chinese name. The disputed domain name was registered on 1 August 2024 and resolves to a commercial website offering for sale different kinds of products, apparently from third parties, at discounted prices.

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.

In particular, the Complainant maintains that the disputed domain name is confusingly similar to its NANUSHKA trademark as it reproduces this trademark entirely with the sole addition, at the end of the trademark, of the letter "l", and of the term "shop". The added letter "l" is a minor typographical variation of the Complainant's mark that does not alter the overall impression of the sign, likewise the addition of the term "shop".

The Complainant further maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant does not know the Respondent and did not authorize the Respondent to register the disputed domain name.

Finally, the Complainant contends that the Respondent has registered and is being using the disputed domain name in bad faith. The Complainant's NANUSHKA mark is distinctive, has existed for many years and has no generic or descriptive meaning. Given the distinctiveness of the Complainant's trademark and its reputation, it is reasonable to infer that the Respondent has registered and uses the disputed domain
name with full knowledge of the Complainant's mark. According to the Complainant, given the use that the Respondent is making of the disputed domain name, to resolve to a commercial website, it is clear that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or
endorsement of the Respondent's website or location or of any product or service on the Respondent's website or location, which constitutes registration and use in bad faith. Moreover, by reproducing the Complainant's mark in the disputed domain name and using the 'nanushkal' sign in the website header, the Respondent is clearly suggesting to any Internet user visiting the website operated under the disputed domain name that the Complainant, or one of its affiliates, is the source of the website, which is not true. Furthermore, the Complainant points out that the Respondent's website provides no Terms and Conditions or Privacy Policy, which are standard features typically expected on a legitimate
commercial website. The absence of these essential legal documents raises concerns regarding the transparency and credibility of the Respondent and may indicate bad faith in the operation of the website.

The Respondent did not file any Response.

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

I. Confusing Similarity

The Panel agrees with the Complainant that the disputed domain name is confusingly similar to the Complainant's mark NANUSHKA. It is generally recognized that the test for assessing confusing similarity under the Policy involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In this case, the NANUSHKA mark is fully reproduced in the disputed domain name, with the sole addition of a final letter "l" and the term "shop". Accordingly, the Complainant's mark is well recognizable within the disputed domain name and the added elements cannot prevent a finding of confusing similarity of the disputed domain name with the Complainant's mark. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions Third Edition (the "WIPO Overview 3.0").

Accordingly, the Panel is satisfied that the first condition under the Policy is met.

II. Respondent's lack of rights or legitimate interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings rests on the complainant, panels have recognized that where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of proof shifts to the respondent to provide arguments and evidence demonstrating its rights or legitimate interests in the disputed domain name. If the respondent does not prove its rights or legitimate interests, the complainant is deemed to have satisfied the second element under the Policy. This is so because proving a respondent's lack of rights or legitimate interests involves the often difficult task of "proving a negative", by providing information that frequently belongs to the respondent and is not available to the complainant.

Moreover, the Policy cites a number of circumstances that if proved by the respondent, serve as indication to conclude that the respondent owns rights or legitimate interests in the disputed domain name. In particular, under Paragraph 4(c) of the Policy, the following circumstances shall demonstrate the respondent's rights or legitimate interests to the disputed domain name:

(i) that before any notice of the dispute, the respondent has used or has made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services; or

(ii) that the respondent has been commonly known by the disputed domain name, even if the Respondent has acquired no corresponding trademark or service mark rights; or

(iii) that the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's mark.

In the case at issue, the Complainant has mentioned that it did not authorize any third party, including the Respondent, to register the disputed domain name. Moreover, it is clear that the Complainant does not know the Respondent and has no business or contractual relationship with it. The Respondent is obviously not an affiliate of the Complainant, nor has any other type of link with it. The Panel further notes that nothing in the case file shows that the Respondent is commonly known by the disputed domain name.

As to the use of the disputed domain name, the Panel notes that the Respondent was indeed using the disputed domain name before receiving notice of the UDRP proceedings. However, such use cannot provide the Respondent with rights or legitimate interests in the disputed domain name. First, as mentioned above, the Respondent's website is connected to a highly misleading domain name, which contains a misspelling of the Complainant's mark and the term "shop", strictly connected to the Complainant's activity. Moreover, the Respondent has used the disputed domain name to resolve to a commercial website in Hungarian, depicting a confusingly similar mark, and offering for sale products apparently originating from third parties at discounted prices. Such prices are expressed in the Hungarian currency. In view of these circumstances, Internet users are likely to believe that the disputed domain name and associated website belong to the Complainant, or are endorsed by the Complainant, which is not the case. Accordingly, the Respondent's use of the disputed domain name cannot amount to a bona fide offering of goods or services, nor to a noncommercial or fair use.

In light of the foregoing, the Panel finds that the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. As the Respondent failed to rebut the Complainant's arguments, the Panel is satisfied that the second element of the Policy has been met.

III. Bad Faith

According to Paragraph 4(a)(iii) of the Policy, to satisfy the last requirement under the Policy, the Complainant must prove both registration and use in bad faith.

As far as registration in bad faith is concerned, the Complainant maintains that its trademark is distinctive and is strictly associated with the Complainant, as it corresponds to the nickname of the Complainant's designer. Moreover, the Complainant's mark is renowned. The Panel notes that the Respondent did not provide any evidence of the alleged reputation of the Complainant's mark, which therefore cannot be confirmed at this stage. However, the Panel concedes that NANUSHKA is a distinctive term, which does

not appear to have a specific meaning. Moreover, noting the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, the Panel has conducted a search through the Google engine against the term "nanushka", which has revealed hits exclusively associated with the Complainant. Accordingly, it appears that not only is the term "nanushka" distinctive, as it has no specific meaning, but it is also strictly related to the Complainant. This circumstance, along with the fact that the disputed domain name contains a misspelling of the Complainant's mark and the term "shop", which is related to the Complainant's activity, that the website is in Hungarian and that the prices are expressed in the Hungarian currency, is, to the Panel, evidence that the Respondent was well aware of the Complainant and of its mark when it registered the disputed domain name. The registration of a domain name confusingly similar to a third party's distinctive mark, being aware of this mark and without rights or legitimate interests, amounts to registration in bad faith.

As far as use in bad faith is concerned, as mentioned above, the disputed domain name resolves to a highly misleading website, depicting a trademark almost identical to the Complainant's NANUSHKA mark, and offering for sale unrelated products at discounted prices. Moreover, the information of who operates the website is only displayed in the "About us" section, which is accessible through a link at the very bottom of the home page of the Respondent's website and is therefore difficult to see. The Respondent is certainly gaining a profit from each product bought through its website and there is a risk of fraud as the Internet user who wants to purchase a product needs to insert their sensitive data, including their credit card number, in order to conclude the purchase.

Accordingly, the Panel finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark.

Therefore, the Panel is satisfied that also the third and last condition under the Policy is met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **nanushkal.shop**: Transferred

PANELLISTS

Name	**Angelica Lodigiani**

DATE OF PANEL DECISION 2025-05-02

Publish the Decision