Decision for dispute CAC-UDRP-107525

Case number	CAC-UDRP-107525
Time of filing	2025-04-29 16:38:59
Domain names	migrosclubschule.online

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	MIGROS-GENOSSENSCHAFTS-BUND

Complainant representative

Organization	SILKA AB

Respondent

Name	Marcelo Bellegro

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

- International Trademark no. 315524 MIGROS (word mark), registered on June 23, 1966, in international classes 3, 7, 8, 9, 11, 21-31, and 34;
- International Trademark no. 397821 MIGROS (work mark), registered on March 14, 1973, in international classes 1-9, 11-12, 14-32 and 34;
- Swiss Trademark no. 415060 MIGROS (work mark), registered on February 13, 1995, in international classes 35-42;
- European Union Trademark no. 000744912 MIGROS (word mark), registered on July 26, 2000, in international classes 1, 2, 3, 4, 6, 7, 8, 9, 11, 12, 14 - 32, 34, and 35-42;
- International Trademark no. 404446 MIGROS (and device), registered on December 28, 1973, in international classes 1-9, 11-12, 14-32 and 34;
- United States of America Trademark no. 6026436 MIGROS (word mark), registered on April 7, 2020, in international class 35;
- Swiss Trademark Registration number 699634 KLUBSCHULE MIGROS (and device), registered on March 8, 2017, in international classes 9, 16, 35, 38, 41, 42, 43 and 44.

The disputed domain name has been registered on March 24, 2025.

FACTUAL BACKGROUND

The Complainant is a Swiss cooperative retailer, operating under the name MIGROS since 1925. It owns several trademarks incorporating the term “MIGROS,” including international registrations predating the registration of the disputed domain name. The Complainant is also active in educational services through “Klubschule Migros,” for which it owns additional trademark rights.

The disputed domain name was registered on March 24, 2025. It does not resolve to an active website but has active MX records configured. The Respondent has not replied to cease-and-desist letters or participated in this proceeding.

PARTIES CONTENTIONS

FACTS ASSERTED BY THE COMPLAINANT:

The Complainant is a Swiss cooperative enterprise and the largest retailer in Switzerland, also operating internationally in diverse sectors including education through its “Klubschule Migros” initiative. The Complainant asserts rights in multiple trademark registrations incorporating the term “MIGROS,” including International Trademark No. 315524 (registered on June 23, 1966) or EU Trademark No. 000744912 (registered on July 26, 2000) among others. Additionally, the Complainant holds Swiss Trademark Registration No. 699634 for KLUBSCHULE MIGROS registered on March 8, 2017. These trademarks cover a broad range of goods and services and have been used extensively and continuously for decades.

The Complainant submits that the disputed domain name <migrosclubschule.online> is confusingly similar to its registered trademarks. The disputed domain name wholly incorporates the Complainant’s MIGROS mark and nearly the entirety of the KLUBSCHULE MIGROS mark. The alteration of “klubschule” to “clubschule” does not prevent a finding of confusing similarity, as the core trademarks remain clearly recognizable.

The Complainant further asserts that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with or authorized by the Complainant to use any of its trademarks. There is no evidence that the Respondent is commonly known by the disputed domain name or the phrase “migrosclubschule.” The Complainant has conducted searches in relevant trademark databases and internet search engines, which returned no results indicating any such association with the Respondent. The disputed domain name has not resolved to any active website since its registration, and the Respondent has not demonstrated any preparations to use it in connection with a bona fide offering of goods or services or for any legitimate non-commercial purpose.

In support of its case, the Complainant also points to the Respondent’s failure to respond to a cease-and-desist letters. The Complainant contends that the Respondent’s silence reinforces the conclusion that it lacks rights or legitimate interests in the disputed domain name.

Regarding bad faith, the Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. The Complainant’s MIGROS trademark is widely known and has been in use long before the registration of the disputed domain name on March 24, 2025. The Complainant submits that a simple online or trademark database search at the time of registration would have revealed the Complainant’s rights, and thus the Respondent either knew or should have known of them. The Complainant contends that the Respondent’s decision to register the disputed domain name incorporating the entirety of its well-known trademarks supports a finding of bad faith registration.

The Complainant further relies on the doctrine of passive holding, as articulated in WIPO Overview 3.0, section 3.3. The disputed domain name has not been used in any active manner, yet the Respondent has taken steps to conceal its identity through a privacy service, has failed to provide any response to cease-and-desist communications, and cannot plausibly use the disputed domain name in good faith given its confusing similarity to the Complainant’s trademarks. These factors collectively support a finding of bad faith use.

Additionally, the Complainant notes that the disputed domain name has active MX (Mail Exchange) records configured, suggesting potential future use for email communications. Given the composition of the disputed domain name, the Complainant submits that such setup raises serious concerns of potential abuse through phishing or impersonation, further evidencing bad faith.

In conclusion, the Complainant asserts that all three elements of paragraph 4(a) of the Policy are satisfied and requests that the disputed domain name be transferred to the Complainant.

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

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

1. The domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
2. The respondent has no rights or legitimate interests in respect of the domain name; and
3. The domain name has been registered and is being used in bad faith.

I. Identical or Confusingly Similar

The Complainant has established the fact that it has valid rights for the trademarks “MIGROS” and “KLUBSCHULE MIGROS”.

The disputed domain name reproduces the Complainant’s MIGROS mark in its entirety and approximates the KLUBSCHULE MIGROS mark with only a minor alteration (“clubschule” vs. “klubschule”). The Panel finds that the disputed domain name is confusingly similar to the Complainant’s marks. The addition of the generic Top-Level Domain “.online” is irrelevant for the purposes of the comparison under paragraph 4(a)(i) of the Policy.
Therefore, the Complainant has, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to the Complainant’s trademarks in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

II. Rights or Legitimate Interests

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that the respondent has no rights or legitimate interests in respect of the domain name.

The Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. There is no evidence that the Respondent is affiliated with the Complainant, has been authorized to use the Complainant’s marks, or has made any active use of the disputed domain name. The disputed domain name does not resolve to a website, and no evidence of preparations to use it in a bona fide offering of goods or services has been provided. Moreover, the Respondent has failed to respond to the Complaint and to cease-and-desist letters.

The Panel therefore considers that 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).

III. Registered and Used in Bad Faith

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that the domain name has been registered and is being used in bad faith.

The Complainant’s trademarks predate the registration of the disputed domain name by many years and are widely known in Switzerland and internationally. Given the distinctive nature and fame of the MIGROS mark, the Panel finds it implausible that the Respondent registered the disputed domain name without knowledge of the Complainant’s marks.

Considering the (i) similarity between the Complainant’s trademarks and the disputed domain name, (ii) obviously intentional combination of two separate trademarks into one domain name with alteration of one letter (“c” instead of “k”), (iii) distinctiveness of the Complainant’s trademarks, (iv) non-use of the disputed domain name and (v) the failure of the Respondent to respond to cease-and desist letters as well as to submit the response to the complaint, the Panel finds that the disputed domain name has

been registered and is being used in bad faith.

The configuration of MX records further indicates a potential intention to use the disputed domain name for misleading email communications, which may be associated with phishing or other bad-faith purposes. In the totality of the circumstances, including the Respondent's failure to respond, the Panel considers that the Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

The Panel considers that the Complainant has shown that the disputed domain name <migrosclubschule.online>, is confusingly similar to trademarks in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith. The Complainant thus has established all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **migrosclubschule.online**: Transferred

PANELLISTS

Name	**Petr Hostaš**

DATE OF PANEL DECISION 2025-06-03

Publish the Decision