Decision for dispute CAC-UDRP-107545

Case number	CAC-UDRP-107545
Time of filing	2025-05-05 16:21:27
Domain names	wuber.store

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Salumificio Fratelli Beretta S.p.A.

Complainant representative

Organization	Giorgio Gazzola

Respondent

Name	Dominique Lafort

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 invokes several registered trademarks including European Union ('EU') word mark WÜBER registered under No. 006837058 since January 14, 2009, covering goods and services in classes 29, 30 and 43.

FACTUAL BACKGROUND

The Complainant, Salumificio Fratelli Beretta, is an Italian food company established in 1812. The Complainant markets frankfurters and other meat-based products under the WÜBER brand.

The Complainant is the owner of the registered EU word mark WÜBER in several classes since 2009, and operates domain names such as <wuber.com>.

The disputed domain name <wuber.store> has been registered on January 14, 2025. According to the Complainant, the disputed domain name redirected to a Polish-language online store specializing in the sale of meat products. The disputed domain name currently does not appear to resolve to an active 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

Paragraph 15 of the Rules provides that the Panel is to decide the complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out its case and it is apparent, both from the terms of the Policy and the decisions of past UDRP panels, that the Complainant must show that all three elements set out in Paragraph 4 (a) of the Policy have been established before any order can be made to transfer a domain name. As the proceedings are administrative, the standard of proof is the balance of probabilities.

Thus, for the Complainant to succeed, it must prove, within the meaning of Paragraph 4(a) of the Policy and on the balance of probabilities that:

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

The Panel has therefore dealt with each of these requirements in turn.

1. Identity of confusing similarity

The Complainant must first establish that there is a trademark or service mark in which it has rights. Since the Complainant is the holder of the registered WÜBER trademark, which is used in connection with the Complainant's meat-based products, it is established that there is a trademark in which the Complainant has rights.

The disputed domain name <wuber.store> incorporates the Complainant's WÜBER trademark in its entirety, merely removing the diaeresis on the letter "u". In the Panel's view, this does not prevent the Complainant's trademark from being recognizable within the disputed domain name (see section 1.8 WIPO Overview 3.0; IM PRODUCTION v. Xue Han, CAC Case No. 104877 <isabel-marantus.com>).

Additionally, it is well established that the Top Level Domains ("TLDs") such as ".store" may be disregarded when considering

whether the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (see section 1.11 WIPO Overview 3.0).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark. Accordingly, the Complainant has made out the first of the three elements that it must establish.

2. No rights or legitimate interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

It is established case law that it is sufficient for the Complainant to make a prima facie showing that the Respondent has no right or legitimate interest in the disputed domain name in order to shift the burden of proof to the Respondent (see section 2.1 WIPO Overview 3.0 and Champion Innovations, Ltd. V. Udo Dussling (45FHH), WIPO case No. D2005-1094; Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO case No. D2003-0455; Belupo d.d. v. WACHEM d.o.o., WIPO case No. 2004-0110).

The Panel notes that the Respondent has not been commonly known by the disputed domain name and that the Respondent has not acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is known as "Dominique Lafort". The Respondent's use and registration of the disputed domain name was not authorized by the Complainant. There are no indications that a connection between the Complainant and the Respondent existed.

Fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner. The correlation between a domain name and the complainant's mark is often central to this inquiry. Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation (see section 2.5.1 WIPO Overview 3.0). The disputed domain name corresponds to the Complainant's WÜBER trademark without the diaeresis, which is an uncommon sign in domain names. In the Panel's view, this makes the disputed domain name virtually identical to the Complainant's mark. Moreover, according to the Panel, the combination with the ".store" TLD may increase the confusion as it may be considered to refer to a store of the Complainant's products. Therefore, the Panel finds that the disputed domain name carries a risk of implied affiliation with the Complainant and cannot constitute fair use.

Moreover, according to the Complainant, the disputed domain name redirected to an online shop offering products similar to the Complainant's products. The Panel finds that this does not amount to a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain name.

The Panel observes that the disputed domain name currently appears inactive. In the Panel's view, this does not amount to any legitimate noncommercial or fair use or use in connection with a bona fide offering of goods and services either.

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name. In light of the above, the Complainant succeeds on the second element of the Policy.

3. Bad faith

Complainant must prove on the balance of probabilities that the disputed domain name was registered in bad faith and that it is being used in bad faith (see section 4.2 WIPO Overview 3.0 and e.g. Telstra Corporation Limited v. Nuclear Marshmallow, WIPO Case No. D2000-0003; Control Techniques Limited v. Lektronix Ltd, WIPO Case No. D2006-1052).

According to the Panel, the awareness of a respondent of the complainant and/or the complainant's trademark rights at the time of registration can evidence bad faith (see Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz, WIPO Case No. D2011-2209; Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite, WIPO Case No. D2001-1070).

In the instant case, the Panel finds that the Respondent must have had knowledge of the Complainant's rights in the WÜBER trademark at the moment it registered the disputed domain name. The disputed domain name is virtually identical to the Complainant's distinctive WÜBER trademark, and combines it with a TLD which may increase the confusion with the Complainant's business. Moreover, the Complainant's mark has been registered more than 15 years before the disputed domain name.

According to the Complainant, the disputed domain name resolved to a website appearing to offer products similar to the Complainant's products. In the Panel's view, the circumstances of this case indicate that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant and the Complainant's trademarks (see section 3.2.4, WIPO Overview 3.0).

Given the totality of the circumstances discussed above, the current state of the disputed domain name resolving to an inactive page does not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3, WIPO Overview 3.0).

Finally, the Respondent did not contest any of the above. According to the Panel, this serves as an additional indication of the Respondent's bad faith.

Therefore, the Panel finds that, on the balance of probabilities, it is sufficiently shown that the disputed domain name was registered

and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **wuber.store**: Transferred

PANELLISTS

Name	**Flip Petillion**

DATE OF PANEL DECISION 2025-06-12

Publish the Decision