Decision for dispute CAC-UDRP-107434

Case number	CAC-UDRP-107434
Time of filing	2025-05-28 12:02:39
Domain names	galeriemodehaus.com

Case administrator

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

Complainant

Organization	GALERIA S.à.r.l. & Co. KG

Complainant representative

Organization	Epic Legal PartG mbB

Respondent

Organization	Galeria Modehaus

OTHER LEGAL PROCEEDINGS

The Complainant has won the complaint #CAC-UDRP-106764, filed on September 6, 2024 and achieved the transfer of the domain <galeria-modehaus.com>.

In the aforementioned complaint, the Complainant has shown to the Panel that the company listed in the imprint of the website to which the disputed domain name resolved, that the Respondent lists its company name as “Modehaus Pte. Ltd.” with an address in the United States. The legal form of a “Pte. Ltd.” does not exist in the US, accordingly only a legal entity in Singapore, “MODEHAUS PTE. LTD.”, incorporated on February 19, 2024, can be identified via an online search.

The same "Modehaus Pte. Ltd." is now listed in the imprint of the website to which the disputed domain name <galeriemodehaus.com> resolves. This shows that the #CAC-UDRP-106764 is linked to the current complaint #CAC-UDRP107434. In the aforementioned complaint, the Complainant showed to the Panel's satisfaction that 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), that the Respondent had no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy), and that the disputed domain name had been registered and was being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

IDENTIFICATION OF RIGHTS

The Complainant owns inter alia the following trademarks:

German trademark Reg. No. 302019001984 GALERIA, registered on August 20, 2021, for wholesale services in relation to clothing;

German trademark Reg. No. 302021104769 GALERIA (word and device) registered on March 31, 2021, for retail services, mail order

services, wholesale services, e-commerce services relating to clothing;

EUTM Reg. No. 002383180 GALERIA registered on October 22, 2013, for services in the field of commerce, namely arranging contracts for the buying and selling of goods and services, including via the Internet, mail order services by catalogue and via the Internet, import and export services.

FACTUAL BACKGROUND

For more than 120 years GALERIA has been synonymous for department stores in Germany. Due to its continuous and ubiquitous presence in Germany and its growth, especially in the post-war period, GALERIA is known to the majority of German speaking consumers.

The Complainant has retail shops in all major German cities. These are often in prominent locations, such as the popular Marienplatz in the centre of Munich and the famous Alexanderplatz and Kurfürstendamm in Berlin. The Complainant's company name is also prominently displayed on the outside of the buildings. This means that virtually everyone visiting one of the larger German cities comes into contact with the Complainant and the GALERIA trademark.

In addition, the Complainant has been using GALERIA for more than 120 years, not only as a company name, but also for various goods, especially clothing.

According to these standards GALERIA certainly qualifies as a well-known/famous trademark. The Complainant operates the website at “www.galeria.de”.

On the website available under the disputed domain name, the Respondent lists its company name in the imprint “Modehaus Pte. Ltd.” with the address 66 W Flagler Street, Suite 900, PMB 10046, Miami, FL 33130 USA.

The legal form of a “Pte. Ltd. does not exist in the US, accordingly only in Singapore a legal entity “MODEHAUS PTE. LTD.” with its address 3 COLEMAN STREET, #03-24, PENINSULA SHOPPING COMPLEX, Singapore 179804 incorporated on February 19, 2024, can be identified via an online search. The single shareholder is Mr. Max Justin Jeffrey Mueler-Berg, with German citizenship. Thus, the retail services under the disputed domain name are according to the website's imprint provided by the legal entity “Modehaus Pte. Ltd.”

The website resolving in the currently disputed domain name, <galeriemodehaus.com>, has a rating of 3,9 on Trustpilot, with recent review of 1 out of 5 stars with the following wording:

"Beware of fake! I ordered clothes and had to send them back to China. I had to pay for the return shipping myself—almost $50! The return was not accepted due to “refusal of acceptance” and was sent back to me. I have been waiting in vain for my money since August (!). To date, no refund and no response—the case is now going to a lawyer. Stay away!"

Accordingly, for example the Consumer Protection Agency of Hamburg advises - based on consumer complainants received - to avoid the Respondents Online shop under the previously disputed domain name. Furthermore, the Consumer Protection Agency warns that the online shop under the currently disputed domain name is a Fakeshop and a "reboot of the Chinese shop galeria-modehaus.com".

PARTIES CONTENTIONS

The Complainant´s contentions are summarised above. 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).

It is well established that the specific top level of a domain name such as “.com” does not affect the domain name for the purpose of determining whether it is identical or confusingly similar. Neither does the mere addition of generic terms like in this case "modehaus" which is German for "fashion house". The slight and barely noticeable misspelling replacing the last "a" in GALERIA with and "e" in the disputed domain name does not take away the overall similarity neither visually, orally or conceptually, therefor the disputed domain name is confusingly similar to the Complainant´s trademark GALERIA.

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).

The circumstances set out in the Factual Background shows to the Panel that the Respondent was fully aware of the Complainant's very well-known GALERIA mark when the Respondent registered the disputed domain name and that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source of the Respondent's website and of the products promoted on that website. This demonstrates registration and use in bad faith.

Furthermore, the Panel finds that the mere registration of a domain name that is identical or confusingly similar to a well-known or widely-known trademark by an unaffiliated entity is sufficient to create a presumption of bad faith.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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

1. The three essential issues under the paragraph 4(a) of the Policy are whether:

i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

ii. the Respondent has no rights or legitimate interests with respect to the disputed domain name; and

iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain name, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant states and proves that the disputed domain name is confusingly similar to its trademarks and its domain names. Indeed, the trademark is fully incorporated in the disputed domain name as the misspelling replacing "a" with an "e" in GALERIA must be disregarded.

The disputed domain name is therefore deemed confusingly similar.

b) The Respondent is not generally known by the disputed domain name and have not acquired any trademark or service mark rights in the name or mark, nor is there any authorization for the Respondent by the Complainant to use or register the disputed domain name.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain name was registered.

It is concluded that the mere registration of a domain name that is identical or confusingly similar to a well-known or widely-known trademark by an unaffiliated entity is sufficient to create a presumption of bad faith. Furthermore, the Respondent registered the disputed domain name and that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source of the Respondent's website and of the products promoted on that website.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied 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. **galeriemodehaus.com** : Transferred

PANELLISTS

Name	**Lars Karnoe**

DATE OF PANEL DECISION 2025-06-26

Publish the Decision