Decision for dispute CAC-UDRP-107782

Case number	**CAC-UDRP-107782**
Time of filing	**2025-08-01 09:53:32**
Domain names	**lupilu.com**

Case administrator

Name	**Olga Slanařová (Case admin)**

Complainant

Organization	**Lidl Stiftung & Co. KG**

Complainant representative

Organization	**HK2 Rechtsanwälte**

Respondent

Organization	**Boosting Inc**

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 numerous LUPILU trademarks registered in various jurisdictions worldwide, including the following:

- International Registration No. 997257, registered on March 6, 2009, in Classes 25 and 28, designating countries: AU, BA, CH, CN, EM, LI, ME, MK, TN, TR, UA, VN; and
- UKIPO Registration No. UK00800997257, registered on March 30, 2010, in Classes 25 and 28.

FACTUAL BACKGROUND

The Complainant is one of the largest supermarket chains in Europe, operating more than 12,600 stores. Its stores are currently located primarily in Europe and the United States. In 1930, Josef Schwarz joined A. Lidl & Cie, renaming it Lidl & Schwarz KG, and expanded the business into food wholesale. His son, Dieter Schwarz, introduced discount stores in 1973, leading to the rapid expansion of the chain. Today, the Complainant is part of the Schwarz Group, the world's fifth-largest retailer, having entered the United Kingdom in 1994 and achieving an 8.1% market share by 2024. The company expanded to the United States in 2017, reaching 173 stores by 2024.

The disputed domain name was registered on June 18, 2014. From the time of registration until 2018, the disputed domain name was not actively used. In 2025, the disputed domain name resolved to a parked page displaying third-party links categorized under

headings such as “Baby and Children’s Clothing,” “Baby Store,” and “Baby Clothing Store,” each of which redirected to advertisements or related links for children’s clothing, including “Jacadi,” “Petit Bateau,” and “NAME IT.” As of May 25, 2025, the disputed domain name was listed for sale as a Premium Domain on GoDaddy Germany for €79,706.40, with the option either to purchase directly or to submit a counter-offer.

PARTIES CONTENTIONS

COMPLAINANT:

(i) The Complainant holds rights in the LUPILU trademark, as set forth in the “Identification of Rights” section above. The disputed domain name is confusingly similar to the Complainant’s LUPILU trademark, as it incorporates the LUPILU mark in its entirety, followed only by the “.com” gTLD.

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is neither licensed nor otherwise authorized to use the Complainant’s LUPILU trademark, nor is the Respondent commonly known by the disputed domain name. Moreover, the Respondent does not use the disputed domain name for any bona fide offering of goods or services, nor for any legitimate noncommercial or fair use. Rather, the disputed domain name resolves to a parked page displaying third-party links, which operate on a pay-per-click basis. The disputed domain name currently resolves to an error page.

(iii) The disputed domain name was registered and is being used in bad faith. It incorporates the Complainant’s LUPILU trademark in its entirety without consent or authorization, and it was registered long after the Complainant’s well-known LUPILU mark. From the time of registration until 2018, the disputed domain name was not actively used. By displaying PPC links for children’s clothing on the website in question, the Respondent is targeting the Complainant’s trademark. The disputed domain name has been listed for sale at a price that significantly exceeds the costs associated with the domain’s initial registration. The Respondent had actual knowledge of the Complainant’s trademark when registering the domain name. This knowledge is evident from the fame of the Complainant’s company and the well-established reputation of its trademarks. 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.

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 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

Panel’s Decision on Language of the Proceedings and Procedural Directions

On August 25, 2025, the Panel issued its Decision on Language of the Proceedings and Procedural Directions as follows:

The Panel notes that the Registration Agreement is written in Korean, thereby making Korean the language of the proceedings. The Complainant has requested that the proceeding be conducted in English. The Complainant contends as follows:

- Respondent’s Ability to Understand English: Although the Respondent stated in an email that he is not fluent in English, he confirmed that he can communicate in English. This demonstrates that the Respondent has a working understanding of the language of the Complaint. Under the WIPO Overview 3.0, section 4.5.1(i), this constitutes a valid basis for proceeding in

English. Furthermore, English is the generally accepted international business language, and numerous translation tools are readily available to facilitate accurate understanding;
- Domain Name in Latin Script: The disputed domain name is a .com gTLD registered in Latin script. As recognized in the WIPO Overview 3.0, section 4.5.1, panels often consider the script of the domain name, particularly where it corresponds with the Complainant's mark. The registration in Latin script constitutes an additional indication of the Respondent's knowledge of the English language and further supports the use of English as the language of the proceedings; and
- Potential Unfairness and Delay: Since the Complainant has no knowledge of Korean, requiring a translation of the Complaint into Korean would cause unwarranted delay and additional costs. Under the WIPO Overview 3.0, section 4.5.1(vi) explicitly notes that such unfairness can justify proceeding in a language other than that of the registration agreement. Accordingly, the Complainant asserts that requiring translation of the Complaint into Korean would be inequitable, burdensome, and unjustified under the particular circumstances of this case.

The CAC has received an answer from the Respondent (submitted both in English and Korean) stating that he/she does not understand English very well and wishes to proceed in Korean. The CAC has responded in both English and Korean, informing the parties that the Panel will decide on the language of the proceedings.

The Panel has discretion under UDRP Rule 11(a) to determine the appropriate language of the proceedings, taking into account the particular circumstances of the administrative proceeding. See Lovehoney Group Limited v. yan zhang, CAC 103917 (CAC August 17, 2021) (finding it appropriate to conduct the proceeding in English under Rule 11, despite Japanese being designated as the required language in the registration agreement).

Pursuant to UDRP Rule 11(a), the Panel finds that the Complainant has advanced a persuasive argument. In view of the Respondent's communications in both Korean and English, the Panel considers that the Respondent is able to understand the communications and the Complaint in English. Given the circumstances, the Panel determines that the language of the proceeding shall be English, while granting the Respondent the opportunity to file a response in Korean to the Complaint by September 1, 2025.

On August 25, 2025, the CAC notified the Parties of the Panel's decision on the language of the proceedings, while granting the Respondent the opportunity to file a Response in Korean to the Complaint by September 1, 2025. The Respondent did not submit a Response before the deadline.

The Panel is satisfied that all remaining procedural requirements under the UDRP have been met, and there is no impediment to the issuance of a decision.

PRINCIPAL REASONS FOR THE DECISION

Paragraph 15(a) of the Rules for the UDRP ('the Policy') instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

(1) the disputed domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(2) 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.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory. See Vertical Solutions Mgmt., Inc. v. webnetmarketing, inc., FA 95095 (FORUM July 31, 2000) (holding that the respondent's failure to respond allows all reasonable inferences of fact in the allegations of the complaint to be deemed true); see also Talk City, Inc. v. Robertson, D2000-0009 (WIPO Feb. 29, 2000) ("In the absence of a response, it is appropriate to accept as true all allegations of the Complaint.").

Rights

The Complainant asserts ownership of the registered trademark LUPILU, as identified in the "Identification of Rights" section above. The Panel recognizes that an international or national trademark registration is sufficient to establish rights in a mark. Accordingly, the Panel finds that the Complainant has established its rights in the LUPILU trademark.

The Complainant further contends that the disputed domain name **<lupilu.com>** is confusingly similar to its LUPILU mark, as it fully incorporates the LUPILU mark in its entirety, followed only by the ".com" gTLD. The addition of a gTLD does not suffice to distinguish a disputed domain name from a trademark. See SportScheck GmbH v. wu han yu chong shang mao you xian gong si, CAC-UDRP-107391 (CAC April 14, 2025) ("The addition of a generic or descriptive term and a gTLD does not sufficiently distinguish a disputed domain name from a trademark."). Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's LUPILU mark.

No rights or legitimate interests

A complainant must first make a prima facie case that a respondent lacks rights and legitimate interests in the disputed domain name under Policy paragraph 4(a)(ii), after which the burden shifts to the Respondent to demonstrate it does have rights or legitimate interests. See Section 2.1, WIPO Jurisprudential Overview 3.0 ("Where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.").

Relevant information, such as WHOIS data, can serve as evidence to demonstrate whether a respondent is or is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii). The Panel notes that the Whois data lists "Boosting Inc" as the registrant, and there is no evidence in the record indicating that the Respondent was authorized to use the mark. Therefore, the Panel finds that the Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).

The Complainant contends that the Respondent does not use the disputed domain name for any bona fide offering of goods or services, nor for any legitimate noncommercial or fair use.

The Panel notes from the screenshots of the disputed domain name's resolving websites and the Registrar's parked pages that (i) from the time of registration until 2018, the disputed domain name was not actively used, (ii) in 2025, the disputed domain name resolved to a parked page displaying third-party links categorized under headings such as "Baby and Children's Clothing," "Baby Store," and "Baby Clothing Store," each of which redirected to advertisements or related links for children's clothing, including "Jacadi," "Petit Bateau," and "NAME IT," and (iii) as of May 25, 2025, the disputed domain name was listed for sale as a Premium Domain on GoDaddy Germany for €79,706.40, with the option either to purchase directly or to submit a counter-offer.

The Panel finds that the Respondent's use of the disputed domain name to redirect Internet users seeking the Complainant to a website containing various links of the Complainant's competitors for children's clothing, while simultaneously listing the disputed domain name identical to the Complainant's well-known mark for sale at a price exceeding the normal registration cost of the domain name, does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use under Paragraph 4(c)(i) or (iii) of the Policy.

Accordingly, the Panel concludes that the Complainant has established a prima facie case based on the foregoing considerations. As the Respondent has neither submitted a Response nor made any attempt to rebut the prima facie case, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name.

Bad faith

Paragraph 4(b) of the Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. Any one of the following is sufficient to support a finding of bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, 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 a product or service on the respondent's website or location.

The Complainant contends that the disputed domain name, registered in 2014 without authorization, incorporates the Complainant's well-known LUPILU mark in its entirety. It later resolved to a parked page with PPC links targeting children's clothing and has been listed for sale at a price far exceeding registration costs. Therefore, the Respondent's use of the disputed domain name disrupts the Complainant's business, while the Respondent gains commercial benefits by attracting Internet users through confusion with the Complainant's well-known mark and by offering the disputed domain name for sale.

Firstly, the Panel notes that in 2025 the disputed domain name resolved to a parked page displaying third-party links categorized under headings such as "Baby and Children's Clothing," "Baby Store," and "Baby Clothing Store," each of which redirected to advertisements or related links for children's clothing, including "Jacadi," "Petit Bateau," and "NAME IT." The Panel finds that the site associated with the disputed domain name diverts Internet traffic seeking the Complainant to various links of the Complainant's competitors for children's clothing, thereby disrupting the Complainant's business. Furthermore, the Respondent presumably gains pay-per-click fees and thus derives commercial benefits 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 of a product or service thereon. Accordingly, the Panel finds that the Respondent registered and used the disputed domain name in bad faith under Policy Paragraph 4(b)(iii) and 4(b)(iv). See JCDECAUX SE v. Ubiquity Solar, CAC-UDRP-106155 (CAC February 9, 2024) ("finding presumably, Respondent receives pay-per-click fees from the linked websites. Hosting hyperlinks that compete with a complainant may be evidence of bad faith under Policy paragraph 4(b)(iv)").

Secondly, the Panel further notes that as of May 25, 2025, the disputed domain name was listed for sale as a Premium Domain on GoDaddy Germany for €79,706.40, with the option either to purchase directly or to submit a counter-offer. Registering or acquiring a domain name for the purpose of selling, renting, or otherwise transferring the registration to a trademark owner for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name is an indication of bad faith registration and use (see Policy Paragraph 4(b)(i)). The Panel considers that the amount for which the disputed domain name has been advertised for sale, €79,706.40, far exceeds the Respondent's out-of-pocket costs directly associated with the disputed domain name. In circumstances where the disputed domain name resolves to a website containing various links of the Complainant's competitors for children's clothing, the Panel finds that the Respondent's general offer to sell the disputed domain name for an amount in excess of its out-of-pocket costs supports a finding of bad faith registration and use under Policy Paragraph 4(b)(i). See Naos v. Qing Shui, CAC 104407 (CAC April 5, 2022) ("finding the amount USD 955 would exceed the Respondent's out-of-pocket costs directly associated with the disputed domain name. The Panel finds that the Respondent's general offer to sell the disputed domain name for an amount in excess of its out-of-pocket costs supports the Respondent's bad faith registration and use of the disputed domain name per paragraph 4(b)(i) of the Policy").

Lastly, the Complainant asserts that the Respondent registered and used the disputed domain name with knowledge of the Complainant's rights in the LUPILU mark. While constructive knowledge alone is insufficient under Policy Paragraph 4(a)(iii), actual knowledge, demonstrated by the notoriety of the mark and the nature of the Respondent's use, is sufficient to establish bad faith. See Orbitz Worldwide, LLC v. Domain Librarian, FA 1535826 (Forum February 6, 2014) ("The Panel notes that although the UDRP does not recognize 'constructive notice' as sufficient grounds for finding Policy paragraph 4(a)(iii) bad faith, the Panel here finds actual knowledge through the name used for the domain and the use made of it."); see also AutoZone Parts, Inc. v. Ken Belden, FA 1815011 (Forum December 24, 2018) ("Complainant contends that Respondent's knowledge can be presumed in light of the substantial fame and notoriety of the AUTOZONE mark, as well as the fact that Complainant is the largest retailer in the field. The Panel here finds that Respondent did have actual knowledge of Complainant's mark, demonstrating bad faith registration and use under Policy paragraph 4(a)(iii)").

The Panel agrees and infers, based on the use of the disputed domain name redirecting Internet users to the Complainant's competitors and the well-known status of the LUPILU mark, that the Respondent had actual knowledge of the Complainant's rights at the time of registration. Accordingly, the Panel concludes that the disputed domain name was registered and 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. **lupilu.com**: Transferred

PANELLISTS

Name	**Mr. Ho-Hyun Nahm Esq.**

DATE OF PANEL DECISION 2025-09-03

Publish the Decision