Decision for dispute CAC-UDRP-107771

Case number	CAC-UDRP-107771
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Domain names	manguunde.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

Name	Zhiling He

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 owns numerous trademark registrations consisting of / with the element Manguun in various jurisdictions worldwide, in particular the following:

- National registrations, e.g.;

- German trademark registration no. 30761153 “MANGUUN” with priority of September 18, 2007, inter alia for international classes 14, 18, 25, i.e. jewellery, watches, bags and clothing;

- German figurative trademark registration no. 30602069 “manguun” with priority of January 12, 2006, inter alia for international classes 14, 18, 25, i.e. jewellery, watches, bags and clothing;

- IR/EUTM registrations, e.g.;

- International trademark registration with designation to European Union no. 965106 “MANGUUN” with priority of February 8, 2008, inter alia for international classes 14, 18, 25;

- International trademark registration with designation to European Union no. 910469 with priority of July 7, 2006, inter alia for international classes 14, 18, 25.

FACTUAL BACKGROUND

The Complainant is GALERIA, a German department store which was founded in 1897 as GALERIA Kaufhof GmbH. In 2020, the company was merged into GALERIA Karstadt Kaufhof. It is one of the biggest department store chains in Germany 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, the Complainant 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 center 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 retail stores comes in contact with the Manguun trademark.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant states that

1. the disputed domain name <manguunde.com> is confusingly similar to the Complainant's "Manguun" trademarks. First of all, "manguun" is identical to the "Manguun" trademark in its entirety. The further element "de" is clearly a descriptive postfix, i.e. an abbreviation for Germany/Deutschland, which is designed to make consumers believe that this is the German website for an online shop for Manguun.

2. The Complainant and its well-known Manguun trademark are virtually universally known in Germany. The Complainant owns numerous trademark registrations for its Manguun trademarks. A simple Internet search for "Manguun" would have yielded many obvious references to the Complainant. That this was clear for the Respondent is evidenced by the fact that it is impersonating Complainant and attempting to attract users in order to generate income through advertisements or scamming consumers.

3. On Respondent's website under the disputed domain name, it addresses the company name as Manguun® with company residence in Berlin, but at the bottom of the page it lists the German address Kreuzstraße 26, Münster, North Rhine-Westphalia. In the terms and conditions, the Respondent claims to be Manguun® Kleid, Schuhe, Jacke, Pullover GmbH, which does not exist on the German register. It is a fake company name with a fake address. Furthermore, Respondent is claiming that Manguun was founded 2015 in Berlin, which is untrue - as proven by the trademark register excerpts.

4. Respondent also implemented fake terms and conditions for the sale of products and FAQs, inter alia "Can I return an article?; Do I receive an invoice for my order?". Furthermore, Respondent has created fake reviews of persons who allegedly ordered products from the website.

5. The Respondent is undoubtedly aware of the Complainant and its Manguun trademark at the time of registration of the disputed domain name. It is literally using the trademark for an online shop as a scam to trick consumers. The website only contains the trademark Manguun and no information about different trademarks or labels, and the Respondent pretends to be the owner of the trademark. The website also pretends to be offering clothing, jewellery and watches, and also uses "Manguun" as its company name. On the landing page, there is a section called: "Manguun-Sales Today" and below there are several pictures of clothing with the trademark manguun, including realistic prices in €. The use of the original product photos also constitutes an infringement of copyright law.

6, Respondent has not used the disputed domain name for a bona fide offering of products or services nor for a legitimate noncommercial or fair purpose. On the contrary, Respondent is operating under the disputed domain a website that is designed to look like a web shop of the trademark manguun, using AI pictures of clothing, but also real pictures of Manguun clothing. Thus, the website's purpose is to generate income through advertisement by luring customers of the Complainant, who expect to buy Manguun clothing. Therefore, Respondent is pretending to be active in the same business as Complainant and is directly competing with Complainant's web shop under www.galeria.de.

7. The disputed domain name was apparently deliberately chosen by the Respondent's to mislead consumers into believing that the services were provided or at least affiliated with the Complainant. Only, this misrepresentation of an affiliation with the Complainant enabled the Respondent to attract consumers to its services. This will also have a negative impact on the well-known reputation of the Complainant's trademark, because the consumers could be annoyed that they cannot buy from the website.

8. The Respondent is using the disputed domain name in a clear attempt to pass itself off as the Complainant, misleadingly diverting the Complainant's customers in a manner that cannot be considered as a bona fide offering of goods or services and supporting the conclusion that Respondent registered and is using <manguunde.com> in bad faith.

RESPONDENT:

The Respondent has not appeared formally or informally to controvert the evidence submitted by the Complainant.

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(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."

Pursuant to Paragraph 4(a) of the Policy the Complainant is required to prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

(i) the domain name registered by respondent is identical or confusingly similar to a trademark or service mark in which complainant has rights; and
(ii) respondent has no rights or legitimate interests in respect of the domain name; and
(iii) the 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 and adduced proof 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 and annexes as true unless the evidence is clearly contradictory. See Talk City, Inc. v. Robertson, D2000-0009 (WIPO February 29, 2000) (In the absence of a response the Panel “is left to render its decision on the basis of the uncontroverted contentions made, and the evidence supplied, by complainant.”).

1. Identical or confusingly similar, paragraph 4(a)(i) of the Policy.

To succeed under the first element, a complainant must pass a two-part test, to establish first that it has rights, and thereafter that the disputed domain name is either identical or confusingly similar to the mark. The first element of a UDRP complaint “serves essentially as a standing requirement.” See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“WIPO Overview 3.0”), section 1.7.

Here, the Complainant has established that it has rights in the word mark MANGUUM by providing the Panel with the evidence that it has registered trademarks. The consensus view which the Panel adopts is that a national or an international trademark registration is sufficient to establish rights in that mark. As such, the Panel finds that the Complainant has established that it has a right in the word mark MANGUUM.

The second part of the test calls for comparing the Complainant’s mark with the disputed domain name. It entails “a straightforward visual or aural comparison of the trademark with the alphanumeric string in the domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark." WIPO Overview 3.0 at section 1.8. The dominant feature in this dispute is the Complainant's mark MANGUUM.

That the relevant trademark is recognizable within the disputed domain name is sufficient to establish confusing similarity. In this

case, the Respondent includes a two-letter addition of “de” that signifies a geographical location in Germany. If the “relevant trademark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element,” Bloomberg Finance L.P. v. Nexperian Holding Limited, Forum Case No. FA1804001782013.

The gTLD, here .com, does not have any impact on the overall impression of the dominant portion of the disputed domain name and is therefore irrelevant in determining the confusing similarity with MANGUUM. See A&S Holdings (AUS) Pty Ltd v. Sam Nelson, Sam Nelson, WIPO Case No. D2025-0720 (A “generic Top-Level Domain ('gTLD') is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of WIPO Overview 3.0.’).

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. Accordingly, the Complainant has satisfied Paragraph 4(a)(i) of the Policy.

2. Rights and legitimate interests, paragraph 4(a)(ii) of the Policy.

To establish the second of the three elements, the Complainant must first demonstrate that the Respondent lacks rights and legitimate interests in the disputed domain name. See Advanced International Marketing Corporation v. AA-1 Corp, FA 780200 (Forum November 2, 2011) (finding that a complainant must offer some evidence to make its prima facie case and satisfy Policy paragraph 4(a)(ii). However, recognizing that the proof for establishing this element is under the Respondent's control, the Complainant's may satisfy this burden by offering a prima facie case based on such evidence as there is thus shifting the burden of persuasion to the Respondent to produce evidence sufficient to overcome the presumption that it lacks rights or legitimate interests in the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it did not authorize the Respondent to register the disputed domain name, that Respondent is not using the domain name for any bona fide use, nor can it claim to be commonly known by the name "MANGUUM" as it has been identified in the Whois directory as Zhiling He. See Emerson Electric Co. v. golden humble /golden globals, FA 1787128 (Forum June 11, 2018) ("lack of evidence in the record to indicate a respondent is authorized to use [the] complainant's mark may support a finding that [the] respondent does not have rights or legitimate interests in the disputed domain name per Policy ¶ 4(c)(ii)").

The Complainant has also demonstrated that the Respondent is not using the disputed domain name for any non-commercial or fair use. See Croatia Airlines d. d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455 (Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy).

Complainant has satisfied the Panel that it has set forth a prima facie case and the burden thereupon shifts to the Respondent. The Policy sets forth the following nonexclusive list of factors any one of which, if proved, would satisfy Respondent’s burden, but the absence of any evidence supports a complainant's contention that the respondent lacks rights or legitimate interests in the disputed domain name:

(i) "[B]efore any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services."

(ii) "[Y]ou (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights."

(iii) "[Y]ou are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

The failure of a party to submit evidence on facts in its possession and under its control may permit the Panel to draw an adverse inference regarding those facts. See Mary-Lynn Mondich and American Vintage Wine Biscuits, Inc. v. Shane Brown, doing business as Big Daddy's Antiques, WIPO Case No. D2000-0004.

As the Respondent has not controverted the evidence that it lacks right or legitimate interests in the disputed domain name, and there is no other evidence from which to draw an inference otherwise, the Panel finds that the Complainant has satisfied Paragraph 4(a)(ii) of the Policy.

3. Registration and Use in Bad faith:

It is the Complainant's burden under Paragraph 4(a)(iii) of the Policy to prove that the Respondent both registered and is using the disputed domain name in bad faith. It is not sufficient for a complainant to rest its case on the finding under Paragraph 4(a)(ii) of the Policy, although the fact that the Respondent lacks rights or legitimate interests in the disputed domain name will be a factor in assessing its motivation for registering a domain name which in this case is virtually identical to the Complainant's mark.

The Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. The preamble to Paragraph 4(b) states: "For the purposes of Paragraph 4(a)(iii) [the finding of any of the circumstances] shall be evidence of the registration [...] of a domain name in 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's proof in this case focuses the Panel's attention on the fourth factor. As there is no proof that would support the other factors, the Panel will not address them. Complainant contends that the Respondent has targeted the Complainant's mark for the purpose of taking advantage of its goodwill and reputation to attract Internet users to its website accessible at <manguunde.com>. This impersonation "creat[es] a likelihood of confusion [...] as to the source, sponsorship, affiliation, or endorsement of [its] website".

The evidence in this case supports the conclusion that the Respondent is impersonating the Complainant. This falls in the category of illegal activity and can confer neither rights nor legitimate interests (as already explained) or good faith registration and use. See WIPO Case No. D2004-1019, <wwwprada.com> (“In paragraph 9(d) of the Complaint, the Complainant contends, as the ground for asserting the Respondent’s bad faith in the use of the Domain Name, that the Respondent capitalizes on the worldwide fame of PRADA to attract users which are then redirected to a number of commercial Websites, most of them not associated with Prada, and some of them competing with Prada or even selling counterfeit Prada products”.) The same can no less be said of the registration and use of the term MANGUUM in <manguumde.com>.

In the absence of a response by a respondent to justify its registration and use of a domain name corresponding to a famous or well-known mark, a panel is compelled to examine the limited record for any exonerative evidence of good faith. Here, the Panel finds none. The Respondent has appropriated a well-known, indeed in its niche, a famous mark to serve an infringing purpose. See Royal Bank of Canada - Banque Royale Du Canada v. Registration Private, Domains By Proxy, LLC / Randy Cass, WIPO Claim No, D2019-2803 the Panel noted: "It is clear that where the facts of the case establish that the respondent's intent in registering or acquiring a domain name was to unfairly capitalize on the complainant's [...] trademark, panels have been prepared to find the respondent acted in bad faith."

In this case, it is plain that the Respondent is intentionally attempting to attract, for commercial gain, Internet users to the Respondent’s websites by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s websites. Initially, Internet users would be likely to be drawn to the Respondent’s website because of the confusing similarity between the disputed domain name and the Complainant’s Manguun trademark. See Associazione Radio Maria v. Mary Martinez / Domains by Proxy, Inc., WIPO Case No. D2010-2181 (“It is sufficient for the purposes of paragraph 4(b)(iv) of the Policy that there is an intent on the part of the Complainant to rely upon a confusion between the Domain Name and another’s mark to draw Internet users to the relevant page....“).

The Respondent’s intentional registration of a domain name incorporating the Complainant’s well-known mark, being fully aware of the Complainant’s rights in the mark, without any right or legitimate interest in doing so is registration in bad faith. See, e.g., The Gap, Inc., Gap (Apparel), LLC, and Gap (ITM) Inc. v. Privacy service provided by Withheld for Privacy ehf / Trinh Hoang, WIPO Case No. DME2022-0018 (“The evidence and allegations submitted by the Complainant support a finding that the Respondent was engaged in an attempt to pass himself off as the Complainant by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of his website for his own commercial benefit..”).

Finally, what is material here is that the Respondent has registered and is using the disputed domain name adversely to the Complainant's statutory rights and giving consumers a clear impression that it is a website sponsored by the Complainant. As the domain name could not conceivably be used without infringing on those rights, its registration was also in bad faith. See Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Claim No. D2000-0003. The Panel in Singapore Airlines Ltd. v. European Travel Network, WIPO Claim No. D2000-0641 held that "[t]he registration of domain names obviously relating to the Complainant is a major pointer to the Respondent's bad faith and desire to 'cash in' on the Complainant's reputation."). See also Justice for Children v. R neetso / Robert W. O'Steen, WIPO Case No. D2004-0175 (holding that "harm results from the confusion caused by the initial attraction to the site by means of borrowing complainant's mark. And that is exactly the harm the Policy was adopted to address.").

For these reasons, the Panel finds that the Respondent is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **manguunde.com**: Transferred

PANELLISTS

Name	Gerald Levine Ph.D, Esq.

DATE OF PANEL DECISION 2025-09-08

Publish the Decision