Decision for dispute CAC-UDRP-107899

Case number	**CAC-UDRP-107899**
Time of filing	**2025-09-01 15:32:45**
Domain names	**livarnohome.com**

Case administrator

Name	**Olga Dvořáková (Case admin)**

Complainant

Organization	**Lidl Stiftung & Co. KG**

Complainant representative

Organization	**HK2 Rechtsanwälte**

Respondent

Name	**Haihong Lin**

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 the following registrations for the word trademark LIVARNO:

European Registration No. 007062938 dated July 14, 2008;

United Kingdom Registration No. UK00907062938 dated July 14, 2008;

Canadian Registration No. TMA907916 dated December 11, 2008; and

WIPO Registration No. 1008795 dated December 12, 2008.

FACTUAL BACKGROUND

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The Complaint is one of the biggest supermarket chains in Europe, operating over 12.600 stores. Currently, its stores are primarily located in Europe and the United States. Under the “Livarno” brand, the Complainant sells a wide range of home products such as home textiles, garden furniture and kitchen supplies. The products can be purchased either online at https://www.lidl.de/q/brand/livarno-home or directly in Lidl stores. “Livarno” is the own brand of the Complainant and has no meaning in German or English. The Complainant owns many registrations for the LIVARNO trademark as noted above. The disputed domain name <livarnohome.com> was registered on July 30, 2024.

PARTIES CONTENTIONS

COMPLAINANT

The disputed domain name is confusingly similar to the Complainant’s trademark as it includes the trademark in its entirety and adds only the generic term “home” as well as the “.com” TLD.

The Respondent has no rights or legitimate interests in the disputed domain name as it is not commonly known by the domain name and it resolves the domain name to a fake website that features images of home products and monetized links, and it includes a “Comment” section that invites users to input their name and email address.

The disputed domain name was registered and used in bad faith based on the above-mentioned activity by the Respondent.

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

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. Confusing Similarity

The Complainant has established its rights to the LIVARNO trademark through its submission into evidence of its WIPO and EUIPO trademark registration certificates, the earliest of which is dated on 14 July, 2008.

The disputed domain name combines the Complainant's trademark with the generic word "home" and the ".com" gTLD. These additions to the term "LIVARNO" do not dispel the confusing similarity between the disputed domain name and the Complainant's trademark. Avast Software s.r.o. v. Milen Radumilo, 102384 (CAC April 19, 2019) ("it is well accepted that where the relevant trademark is recognizable within the disputed domain name, the addition of descriptive terms would not prevent a finding of confusing similarity."). Further, the Complainant asserts that, by the use of this word "Internet users are likely to expect product offers or services related to "Livarno" and therefore to assume that the website is operated, or at least authorized, by [the] Complainant.". The Panel views this assertion favorably as the Complainant does, in fact, sell products for the home under its claimed trademark and so the use of this word seems likely to exacerbate confusion. Union des Associations Européennes de Football (UEFA) v. Nemykin Dmitriy Aleksandrovich, UDRP-107283 (CAC March 3, 2025) ("The descriptive term "tickets" does not eliminate confusing similarity. Moreover, given the Complainants' business activities, it actually increases confusion" as used in the domain name uefa-tickets.com).

Also, the extension ".com" typically adds no meaning or distinctiveness to a disputed domain name and may most often be disregarded in the Paragraph 4(a)(i) analysis. Novartis AG v. Wei Zhang, 103365 (CAC December 9, 2020) ("it is generally accepted that the addition of the top-level suffix in the domain name (e.g., '.com') is to be disregarded under the confusing similarity test").

Accordingly, the Panel finds that the Complainant has rights to its claimed trademark and that the addition of a descriptive word thereto in the disputed domain name is insufficient to avoid a finding that it is confusingly similar to the Complainant's trademark. Thus, the Complainant has satisfied Paragraph 4(a)(i) of the Policy.

2. Rights Or Legitimate Interests

Pursuant to Paragraph 4(a)(ii) of the Policy, the complainant has the burden of making a prima facie showing that the respondent has no rights or legitimate interests in the disputed domain name. Cephalon, Inc. v. RiskIQ, Inc., 100834 (CAC September 12, 2014). Once this burden is met, it then shifts to the respondent to demonstrate that it does have rights or legitimate interests in the domain name. Paragraph 4(c) of the Policy offers the respondent several examples of how to demonstrate its rights or legitimate interests in the disputed domain name.

With reference to Paragraph 4(c)(ii) of the Policy the Complainant states that "[n]o permission to use the "Livarno" trademark was given to the Respondent.". The Respondent has not participated in this case and so it does not contest this. As such, the Panel concludes that the Respondent is not affiliated with the Complainant, nor is it authorized or licensed to use the Complainant's trademark or to seek registration of any domain name incorporating the asserted trademark. Furthermore, the Registrar for the disputed domain name identifies the Respondent as "Haihong Lin". There is no evidence that the Respondent is known otherwise and its use of the Complainant's trademark on its website does not, alone, support a different conclusion. Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com", D2000-0847 (WIPO October 16, 2000) ("use which intentionally trades on the fame of another" should not be considered. "To conclude otherwise would mean that a Respondent could rely on intentional infringement to demonstrate a legitimate interest, an interpretation that is obviously contrary to the intent of the Policy.") Based upon the available evidence in this case, the Panel cannot conclude that the Respondent is commonly known by the disputed domain name.

Next, under Paragraphs 4(c)(i) and 4(c)(iii) of the Policy the Panel considers whether the Respondent is using the disputed domain name to make a bona fide offering of goods or services or whether it is making a legitimate non-commercial or fair use of the disputed domain name. The disputed domain name resolves to a website that claims to offer various home goods under the name LIVARNO HOME. Using a confusingly similar domain name to impersonate and pass oneself off as a complainant is not a bona fide offering of goods or services or a legitimate non-commercial or fair use per Paragraphs 4(c)(i) or (iii) of the Policy. See Ripple Labs Inc. v. Jessie McKoy / Ripple Reserve Fund, FA 1790949 (FORUM July 9, 2018) (no right or legitimate interest found where "the Domain Name, deliberately and inherently impersonates the Complainant and its trade marks."). Here, the Complainant provides screenshots of the Respondent's resolving website and asserts that "the website is currently used to display a fake website with advertisement links from which either Respondent or a third-party monetization service is likely to benefit financially.". Upon a review of this evidence, the Panel notes that the Respondent's website displays the name LIVARNO HOME at the top, in a graphic logo form, followed by the text "At Livarno Home®, we have made it our mission to offer high-quality yet affordable home accessories for every taste and budget.". It goes on to say that "[w]e work exclusively for Lidl and currently produce over 1,000 items, including lamps, furniture, home decor, and more.".

The page displays images of various furniture, lighting, and other home products, but also contains advertisements with what appear to be monetized links for handbags and footwear. Finally, with respect to the footer of the page, the Complainant asserts that “[t]he displayed address only provides general information about a district in Bonn, Germany” and adds that “the social media links displayed on the websites do not redirect to any verifiable corporate presence on the dispatched social media platforms.”.[1] Finally, the Complainant states that “Livarno” is the own brand of the Complainant and has no meaning in German or English. The Complainant’s assertion that this use of its trademark is for the purpose of impersonation and is not a legitimate or fair use appears well-founded and the Respondent has not filed a Response or made any other submission in this case to offer an alternative explanation for its actions. As the Complainant has made out a prima facie case that has not been rebutted by the Respondent, upon a preponderance of the evidence before it the Panel finds that the Respondent fails to make a bona fide offering of goods or services or a legitimate non-commercial or fair use of the disputed domain name under Paragraphs 4(c)(i) or (iii) of the Policy.

3. The disputed domain name was registered and is used in bad faith

The Complainant must prove, by a preponderance of the evidence, that the disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) of the Policy. Hallmark Licensing, LLC v. EWebMall, Inc., D2015-2202 (WIPO, February 12, 2016) (“The standard of proof under the Policy is often expressed as the ‘balance of the probabilities’ or ‘preponderance of the evidence’ standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true.”).

The Complainant first asserts that the Respondent was aware of and targeted the LIVARNO trademark at the time it registered the disputed domain name. Actual knowledge of a complainant’s trademark may form the foundation upon which to build a case for bad faith under Policy paragraph 4(a)(iii). See, Intesa Sanpaolo S.p.A. v. Ciro Lota, UDRP-106302 (CAC April 4, 2024) (“Given the distinctiveness and reputation of the Complainant's prior marks, it is inconceivable that the Respondent could have registered the disputed domain name for a mere chance without actual knowledge of the Complainant's rights in such well-known marks and the intention to exploit such reputation by diverting traffic away from the Complainant’s website.”). The Complainant asserts that the “Livarno” brand already has been in use for several years” and claims “[t]hus, [the] Respondent should have known about Complainant ´s trademarks when acquiring the disputed domain name.” Unfortunately, the Panel finds in the submitted evidence no support for this claimed reputation of the Complainant’s trademark (while trademark registrations prove the existence of legal rights, they do not speak to the reputation of a trademark with the consuming public). However, the fact that the Complainant’s trademark is rather unique and, specifically, the statement on the Respondent’s website “[w]e work exclusively for Lidl”, provides significant evidence that the Respondent was aware of and targeted the Complainant. As such, the Panel concludes that it is more likely than not that the disputed domain name was registered with actual knowledge of the Complainant’s trademark rights.

Next, the Complainant asserts that the Respondent registered and uses the disputed domain name in bad faith and seeks to pass itself off as the Complainant. Using a confusingly similar disputed domain name to pass oneself off as a complainant can demonstrate bad faith under Paragraphs 4(b)(iii) and (iv) of the Policy. See Harley-Davidson Motor Company Inc. v. Liu Peng et al., UDRP-106275 (CAC March 27, 2024) (“use of a disputed domain name to pass off as a complainant and offer competing or counterfeited goods may be evidence of bad faith per Policy paragraph 4(b)(iii) and (iv).”). As noted above, the Complainant provides screenshots of the Respondent’s website and the Panel notes that it makes prominent use of the LIVARNO trademark, offers products for the home, claims to be exclusively associated with the Lidl retail chain, and displays monetized advertisements. The Respondent has not participated in this case to explain its actions and so, based upon a preponderance of the available evidence, the Panel finds it highly likely that the Respondent registered and used the disputed domain name in bad faith by competing with the Complainant and seeking commercial gain through impersonation of the Complainant and confusion with its trademark, under Paragraphs 4(b)(iii) and (iv).

[1] In addition to referencing the plural “websites”, the Complaint states that “[t]he disputed domains carry the trademarks “Livarno” “Vemondo” and “Saskia” of the Complainants in its entirety with the addition of the second terms “home” or “wasser” or the suffix “de”.” As the present Complaint has been brought only against the domain name livarnohome.com and the Complainant’s submitted screenshots relate only to this website, the Panel assumes that the above statements are made in error and are perhaps from a prior draft of the Complaint.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **livarnohome.com**: Transferred

PANELLISTS

Name	**Steven Levy Esq.**

DATE OF PANEL DECISION 2025-10-14

Publish the Decision