Decision for dispute CAC-UDRP-107961

Case number	CAC-UDRP-107961
Time of filing	2025-09-17 15:15:25
Domain names	ghirdelli.com

Case administrator

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

Complainant

Organization	Chocoladefabriken Lindt & Sprüngli AG

Complainant representative

Organization	SILKA AB

Respondent

Organization	Fundacion Comercio Electronico

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 GHIRARDELLI trademark in different jurisdictions. By way of example, before the United States Patent and Trademark Office with registration number 205776, registered on November 17, 1925 or, before the European Union Intellectual Property Office with registration number 003716453, registered on July 27, 2005.

FACTUAL BACKGROUND

The Complainant, founded in 1845, is a chocolate maker based in Switzerland doing business worldwide. The Complainant with around 15.000 employees runs more than 500 own shops. In 1998 the Complainant acquired one of the oldest United States of America chocolate companies, Ghirardelli, founded in 1852.
The Panel recognizes the distinctive and well-known character of Complainant´s GHIRARDELLI trademark. The Complainant holds a portfolio of domain names incorporating the GHIRARDELLI mark across various generic and country-code top-level domains where <ghirardelli.com> is its official website.

The disputed domain name <ghirdelli.com> was registered on July 22, 2025 and resolves to a pay-per-click (‘PPC’) landing page displaying advertising links to third-party providers of chocolate-related products as it appears in a screenshot produced by the Complainant on September 11, 2025.

On August 18, 2025 the Complainant sent a cease-and-desist letter using the privacy-protected e-mail address listed in the disputed domain name's registration record. The Respondent did not reply.

PARTIES CONTENTIONS

THE COMPLAINANT

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

In particular, the Complainant contends that the disputed domain name consists of a misspelling of the Complainant's GHIRARDELLI mark, specifically omitting the letters 'ar' following the first 'r' but where the trademark remains recognizable. Thus, the dispute domain name is confusingly similar for the purposes of the first element.

Further, the Complainant contends that none of the circumstances described in paragraph 4 (c) of the Policy applies. Indeed, says the Complainant; by resolving the disputed domain name to a pay-per-click landing page the Respondent is capitalizing GHIRARDELLI goodwill by diverting internet consumer to third competitors.

Respondent is not making a legitimate noncommercial or fair use of the disputed domain names. While the disputed domain name is listed for sale, there is no evidence of any prior legitimate use of the disputed domain name by the Respondent prior to its listing for sale.

The Complainant also alleges that the Respondent conduct falls in what is deemed to be bad faith within the meaning of paragraph 4(b)(i) and (iv) of the Policy.

Finally, the Complainant contends that the Respondent is a serial cybersquatter, having been a respondent in hundreds of domain name disputes targeting trademark holders.

Accordingly, the Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

THE 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. Identical or Confusingly Similar

The Complainant has shown rights in respect of GHIRARDELLI trademark for the purposes of the Policy. The Panel finds that a misspelling as it occurs in <ghirdelli.com> does not avoid confusingly similarity for UDRP purposes. While the mark is recognizable in the disputed domain name, the Panel notes that Incorporating common, obvious, or intentional misspellings of a trademark are to be considered confusingly similar for the purposes of the first element. See WIPO Overview 3.0, section 1.7 and 1.9.

The applicable Top Level Domain ('TLD') in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element test.
The Panel finds the first element of the Policy has been established.

2. Rights or Legitimate Interest

Paragraph 4(c) of the Policy sets out non-exclusive examples in which the Respondent may establish rights or legitimate interests in the disputed domain name. However, while the burden of proof in UDRP proceedings rests on the complainant, panels have recognized that proving a respondent lack or rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative". Accordingly, panels have established, since the inception of the UDRP, that it is sufficient to raise a prima facie case against the respondent and then the evidential burden of production shifts to the respondent. See CAC-UDRP-106452.

According to the evidence in the file, the Panel finds that none of the circumstances described in paragraph 4(c) of the Policy can be inferred.

The Panel finds that the Respondent is taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant´s trademark as to the origin or affiliation of the website to which the dispute domain name resolves. That is to say, the disputed domain name resolves to a pay-per-click website displaying advertising links to similar products provided by the Complainant and this do not give the Respondent rights or legitimate interest in terms of the Policy.

The Panel also finds that the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services or a legitimate non-commercial or fair use. Neither by redirecting the internet user to third-party providers of chocolate-related products, nor by attempting to sell the disputed domain name at a price greater than the Respondent's out-of-pocket costs, deserve to be consider as a legitimate undertaking.
The Panel finds the second element of the Policy has been established.

3. Register and Used in Bad Faith
Noting that bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark, the Panel now looks at the third requirement of the test.

In the present case, the Panel finds that the Respondent targeted the Complainant and its trademarks seemingly for its well-known value. Moreover, Respondent´s use of the disputed domain name strengthens the conclusion that the Respondent knew or should have known about the Complainant and its trademark at the time of the registration of the disputed domain names. Thus, the registration was made in bad faith.

As noted, the Panel accepts that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark. That is to say, the Respondent has not undertaken steps to avoid unfairly passing itself off as related to the Complainant, or to otherwise confuse users. The composition of the disputed domain name misrepresents "de facto" the Complainant and it bait and catch internet user through carelessness. In fact, all the links at the pay-per-click parking page are to third-party providers of chocolate-related products where supposedly the Respondent earned a fee. The Panel, therefore, accepts that the Respondent has used the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Besides, the circumstances of the case match with paragraph 4(b)(i) of the Policy. Indeed, the offer for sale of the disputed domain name at a price of USD 1,949 is evidence of bad faith registration because this sum is clearly in valuable excess of the Respondent's out-of-pocket costs directly related to the disputed domain name
The Panel also notes that the Respondent has been linked to hundreds of UDRP cases within the meaning of paragraph 4(b)(ii) of the Policy. See Boehringer Ingelheim Pharma GmbH & Co.KG. v. Carolina Rodrigues (Fundación Comercio Electrónico) CAC-UDRP-107463. Accordingly, the Panel is prepared for an adverse finding under the terms of the Policy.
Therefore, the registration and use of the disputed domain name was in bad faith.
The Panel finds that the Complainant has established the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ghirdelli.com**: Transferred

PANELLISTS

Name	Manuel Moreno-Torres

DATE OF PANEL DECISION 2025-10-16

Publish the Decision