Decision for dispute CAC-UDRP-107980

Case number	CAC-UDRP-107980
Time of filing	2025-09-25 09:45:08
Domain names	neweraargentina.com, newerabelgium.com, newerabg.net, neweracapcolombia.com, neweracapperu.com, neweracapsrbija.com, neweraportugal.com, neweraromania.net, neweraschweiz.com, neweracanada.net, newerasouthafrica.net, newerasuomi.net, newerauksale.com, neweracaponlinelt.com, neweraruguay.net

Case administrator

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

Complainant

Organization	New Era Cap, LLC

Complainant representative

Organization	Convey srl

Respondents

Name	Owen Boyle
Name	Jessica Cross
Name	Kieran Simmons
Name	Emma Hilton
Name	Mohammed Hurst

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 names.

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks for the term "NEW ERA", including European trademark registration no. 004693867 for "NEW ERA", which was registered on 13 November 2006 for various goods in class 25 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

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The Complainant is an American headwear company based in Buffalo, New York. Founded in 1920, the company has been the exclusive supplier of baseball caps for Major League Baseball (MLB) since 1993. Furthermore, the Complainant is official cap provider or official outfitter for numerous other leagues, including the Australian cricket's Big Bash League, the Canadian Football League (CFL), and the National Hockey League (NHL). Today, the Complainant employs nearly 1,500 people globally and produces more than 30 million caps, which are sold in over 40 countries worldwide. The Complainant owns and operates several websites incorporating the Trademark in their domain names, such as <neweracap.com>.

The disputed domain names were all registered on 16 May 2023 and were used in connection with websites offering suspected counterfeit versions of the Complainant's products.

PARTIES CONTENTIONS

Complainant:

The Complainant argues that the disputed domain names are confusingly similar to the Trademark, as they comprise the Trademark in full, and as the Trademark is clearly recognisable in the disputed domain names despite the additional geographical or generic terms, such as "argentina", "colombia", "bg" (the alpha-2 country code for Bulgaria), "lt" (the alpha-2 country code for Lithuania), "cap", "online", or "sale".

Furthermore, the Complainant asserts that the Respondent lacks rights or legitimate interests in the disputed domain names. The Complainant contends that there is no evidence indicating that the Respondent holds any registered trademark rights in relation to the disputed domain names, that the Respondent is not a licensee or authorized agent of the Complainant, nor has he been granted any permission to use the Trademark, that the Respondent is not commonly known by the disputed domain names, that the Respondent has not provided the Complainant with any evidence of use, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services prior to receiving notice of the dispute, that the websites associated with the disputed domain names contain no disclaimer indicating the Respondent's lack of affiliation with the Complainant, that the Respondent has failed to reply to the Complainant's infringement notices, and that the sale of counterfeit products constitutes circumstantial evidence of the Respondents illegal activity, consequently supporting the assertion that the Respondent has no rights or legitimate interests in respect of the domain names.

Lastly, the Complainant contends that the disputed domain names were registered and are being used in bad faith. Regarding bad faith registration, the Complainant asserts that the Trademark enjoys widespread recognition and commercial appeal worldwide and that the Respondent deliberately adopted the disputed domain names, which incorporate the Trademark in its entirety, in order to obtain an economic benefit by selling products in the same product category as those sold by the Complainant using the Trademark. As to bad faith use, the Complainant contends that the fact that the Respondent's use of the disputed domain names in connection with commercial websites misappropriating the Trademark clearly indicates that the Respondent's purpose in registering the disputed domain names was to capitalize on the reputation of the Trademark by diverting Internet users seeking the Complainant's products to the Respondent's websites for financial gain, by intentionally creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of the Complainant's website and/or the goods offered or advertised on those websites. Furthermore, the Complainant states that the Respondent has registered multiple domain names that abusively incorporate the trademarks of various brand owners, such as <asicsaustralia.net>, <cartierchile.com>, <hugobossargentina.com>, <michaelkorsbelgique.com>, <newbalanceisrael.net>, and <oakleyjapan.com>.

Respondent:

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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. Preliminary issues

1.1 Consolidation of Respondents

Paragraph 10(e) of the Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. When considering a complaint filed against multiple respondents, section 4.11.2 of the WIPO Overview 3.0 states that “panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario”.

In light of the Complainant's request to consolidate the multiple Respondents, the Panel has concluded that the disputed domain names are indeed under common control for the following reasons:

- All of the disputed domain names were registered on the very same day with the same registrar;
- The disputed domain names are all use the same name servers;
- The disputed domain names all have a similar naming pattern, starting with the Trademark followed by a country name or code and additional generic terms, such as "cap", "online", or "sale";
- The e-mail addresses linked to the supposed domain name registrants are all composed in the same way, with the first name followed by the surname and a number, and they all use the same e-mail service: “@cxtmail.com”;
- All the disputed domain names point to substantially identical websites. These websites all offer hats and caps, which are suspected to be counterfeit goods;
- Most of the websites feature the same two pictures at the very top, and at least one of these pictures is used by all of the five registrants, while some use both.

This suggests that the disputed domain names are under common control.

Furthermore, the Respondent has not contested or provided any rebuttal regarding the consolidation request made by the Complainant. Therefore, the Panel finds that consolidation would be fair and equitable and will refer to the five registrants collectively as the "Respondent" throughout this decision.

1.2 Language of Proceedings

The language of the Registration Agreement for the disputed domain names is Chinese. According to paragraph 11(a) of the Rules, in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the proceedings be conducted in English for several reasons, including the fact that the disputed domain names contain Latin characters and descriptive English words, and that they were all addressed to English-language websites. The Complainant argues that the Respondent is familiar with the English language and that it would be disproportionate to require the Complainant to refrain from submitting the present Complaint in English and to incur the associated translation costs.

The Respondent did not make any specific submissions with respect to the language of the proceedings.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs (see WIPO Overview 3.0, section 4.5.1).

Having considered all of the above matters, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

2. Substantive issues

Paragraph 4(a) of the Policy requires the Complainant to establish each of the following three elements:

(i) the disputed domain names are identical or confusingly similar to the Complainant's trademark; and
(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
(iii) the disputed domain names have been registered and are being used in bad faith.

1. The Panel accepts that the disputed domains name are confusingly similar to the Trademark. The addition of geographical and generic terms such as "argentina", "colombia", "bg", "cap", "online", or "sale" does not prevent a finding of confusing similarity, as the Trademark is clearly recognisable in the disputed domain names.

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain names. The Panel therefore finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not dispute these assertions in any way and, therefore, failed to prove any rights or legitimate interests in the disputed domain names. Based on the evidence on file, the Panel cannot identify any rights or legitimate interests of the Respondent either, as the disputed domain names are not generic and the Respondent's use of the disputed domain names does not appear to indicate the existence of any rights or legitimate interests of its own. Notably, the Respondent's websites offer suspected counterfeit goods and lack any disclaimer clarifying that the websites are not endorsed or sponsored by the Complainant. Therefore, even if the products offered at the disputed domain names are assumed to be original products, the websites do not meet the Oki Data criteria. Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the disputed domain names under paragraphs 4(a)(ii) and 4(c) of the Policy.

3. The Panel is convinced that the Respondent registered the disputed domain names with full knowledge of the Complainant and its rights in the Trademark. This finding is supported by the fact that the Trademark has been well established for decades and that Respondent refers to the Complainant and suspected counterfeit goods for sale. Regarding bad faith use, by using the disputed domain names in connection with an online store offering suspected counterfeit goods for sale, the Respondent was, in all likelihood, trying to divert traffic intended for the Complainant's website to its own for commercial gain as set out under paragraph 4(b)(iv) of the Policy. Furthermore, the Complainant has proven that the Respondent has engaged in a pattern of registering domain names that include third-party trademarks, in order to prevent the respective trademark or service mark owner from reflecting the mark in a corresponding domain name, as set out in paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **neweraargentina.com**: Transferred
2. **newerabelgium.com**: Transferred
3. **newerabg.net**: Transferred
4. **neweracapcolombia.com**: Transferred
5. **neweracapperu.com**: Transferred
6. **neweracapsrbija.com**: Transferred
7. **neweraportugal.com**: Transferred
8. **neweraromania.net**: Transferred
9. **neweraschweiz.com**: Transferred
10. **neweracanada.net**: Transferred
11. **newerasouthafrica.net**: Transferred
12. **newerasuomi.net**: Transferred
13. **newerauksale.com**: Transferred
14. **neweracaponlinelt.com**: Transferred
15. **newerauruguay.net**: Transferred

PANELLISTS

Name	**Peter Müller**

DATE OF PANEL DECISION 2025-10-31

Publish the Decision