Decision for dispute CAC-UDRP-108021

Case number	CAC-UDRP-108021
Time of filing	2025-10-06 13:59:51
Domain names	migros.pro

Case administrator

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

Complainant

Organization	Migros-Genossenschafts-Bund

Complainant representative

Organization	SILKA AB

Respondent

Organization	Domain Name Privacy 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 has demonstrated ownership of rights in the MIGROS trademark for the purposes of standing to file a UDRP Complaint.

In particular, the Complainant is the owner of trademark registrations for MIGROS, including the following:

- International trademark registration No. 315524 for MIGROS, registered on June 23, 1966;

- European Union trademark registration No. 000744912 for MIGROS, registered on July 27, 2000; and

- European Union trademark registration No. 003466265 for MIGROS, registered on October 29, 2005.

The Complainant also refers to ownership of domain names that incorporate its MIGROS trademark, including the following: <migros.ch>, registered before January 1 1996 (as indicated in WHOIS for .ch ccTLD) and <migrospro.ch>, registered on April 12, 2013.

FACTUAL BACKGROUND

The Complainant was founded in 1925 in Zurich as a private enterprise. From its establishment to this day, the Complainant keeps the cooperative society as its form of organization and serves as the umbrella organization of ten regional Migros Cooperatives. The Complainant is active in manufacturing and wholesaling through more than 30 companies in many commercial areas, including supermarkets (Migros), banking (Migros Bank), fuel stations (Migrol), travel services (Hotelplan), convenience stores (Migrolino) and book retail (Ex Libris).

The disputed domain name was registered on September 15, 2025 and it resolves to a parking page with sponsored links (pay-per-click links or PPC links) which, inter alia, relates to "online shops", "online markets" and various combinations thereof that contain MIGROS trademark.

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 argues that the disputed domain name is identical or, at least, confusingly similar to its MIGROS trademark as this trademark is contained in its entirety within the disputed domain name. Further, the Complainant contends that ".pro" gTLD does not have capacity to dispel confusing similarity between the disputed domain name and the MIGROS trademark for the purposes of the Policy.

Regarding the second UDRP element, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Neither license nor authorization has been granted to the Respondent by the Complainant to make any use of the Complainant's trademark, or apply for registration of the disputed domain name. The Respondent is also not commonly known by the disputed domain name. The Respondent has used the disputed domain name for website with PPC links displaying hyperlinks that are related to online retail, a field in which the Complainant and its trademark are well-known. The Complainant states that using a domain name to host a PPC website does not present a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's trademark or otherwise mislead Internet users. Finally, the Complainant asserts that disputed domain name solely reproduces the Complainant's well-known MIGROS trademark, being also extremely similar to the Complainant's domain names <migros.ch> and <migrospro.ch> and as a result of this, it is more than likely that the disputed domain name will lead Internet users to believe that it is associated with the Complainant and its activities, when it is not the case. Therefore, the Complainant contends that the disputed domain name implies a high risk of affiliation with the Complainant and its activities.

With respect to the third UDRP element, the Complainant holds that its MIGROS trademark was registered decades before the registration of the disputed domain name, that its trademark is well-known as the Complainant is recognized as one of the largest retailers in the world and that due to these facts it is clear that a very simple degree of due diligence would have made any prospective registrant of the domain name aware of the Complainant's rights in the MIGROS trademark. Further, the use of the disputed domain name for website with PPC links competing with goodwill of the Complainant's trademark, makes a clear indication that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's MIGROS trademark as to the source, sponsorship, affiliation or endorsement of said website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith.

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

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy stipulates that the complainant must prove each of the following:

- that the disputed domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- that the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- that the disputed domain name has been registered and is being used in bad faith.

1. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name, as stipulated in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0").

The Complainant has shown rights in respect of the MIGROS trademark for the purposes of the Policy (WIPO Overview 3.0, section 1.2.1).

The entirety of the Complainant's trademark is reproduced within the disputed domain name without any additional terms. Accordingly, the disputed domain name is identical with the Complainant's trademark for the purposes of the Policy (WIPO Overview 3.0, section 1.7).

In addition, it is well established that ".pro", as a generic Top-Level Domain ("gTLD"), can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's trademark (WIPO Overview 3.0, section 1.11.1). However, the Panel notes that use of this particular gTLD in combination with the Complainant's trademark may be of relevance for the assessment of the second and third UDRP element.

The Panel, therefore, finds that the first element of the Policy has been established.

2. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (WIPO Overview 3.0, section 2.1).

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In particular, the Panel notes that there appears to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's MIGROS trademark. There appears to be no element from which the Panel could infer the Respondent's rights and legitimate interests in the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The Panel also finds that the use of the disputed domain name for a parking page with pay-per-click links does not represent a bona fide offering, having in mind that links in this case are mostly related to online retail (including the links that also contain MIGROS trademark) and therefore they compete with and capitalize on the reputation and goodwill of the Complainant's trademark and mislead Internet users (see section 2.9 of WIPO Overview 3.0).

The Panel also finds that the structure of the disputed domain name, which contains the Complainant's MIGROS trademark in its

entirety, carries a high risk of implied affiliation (see WIPO Overview 3.0, section 2.5.1). The choice of ".pro" gTLD additionally emphasizes this risk, since the disputed domain name considered as a whole closely corresponds to the domain name <migrospro.ch>, owned and operated by the Complainant.

Having in mind the above, the Panel finds the second element of the Policy has been established.

3. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith (WIPO Overview 3.0, section 3.2.1).

In the present case, the Panel holds that the Respondent had the Complainant and its MIGROS trademark in mind when registering the disputed domain name. The Complainant's MIGROS trademark has been registered and used long before the Respondent registered the disputed domain name, so it is unlikely that the Respondent was not aware of this trademark, especially having in mind its distinctiveness and reputation. Additionally, the choice of ".pro" gTLD (due to which the disputed domain name closely corresponds to the domain name <migrospro.ch> owned and operated by the Complainant) also indicates that the Respondent had the Complainant in mind when registering the disputed domain name.

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

As mentioned above, the disputed domain name resolves to a parking page with PPC links related to online retail (including the links that also contain MIGROS trademark), meaning that they compete with and capitalize on the reputation and goodwill of the Complainant's trademark. Therefore, the Panel deems that by such use of the disputed domain name, the Respondent has intentionally attempted to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its website according to paragraph 4(b)(iv) of the Policy. This constitutes bad faith use of the disputed domain name.

The Panel finds that the disputed domain name has been both registered and is being used in bad faith, and consequently 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. **migros.pro**: Transferred

PANELLISTS

Name	**Stefan Bojovic**

DATE OF PANEL DECISION 2025-11-17

Publish the Decision