Decision for dispute CAC-UDRP-108320

Case number	CAC-UDRP-108320
Time of filing	2026-01-16 09:54:27
Domain names	tomtom.store

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Tomtom International B.V.

Complainant representative

Organization	Convey srl

Respondent

Organization	tomtom

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 provided evidence of ownership of the following trademarks:

- USPTO Trademark TOMTOM n. 78231460 registered on April 14, 2009, duly renewed and designating goods and services in international classes 9, 38, 39, 42;
- International Trademark TOMTOM n. 90507 registered on May 4, 2006, duly renewed and designating goods and services in international classes 9, 38, 39, 41, 42, 45;
- USPTO Trademark TOMTOM n. 79031570 registered on April 8, 2008, duly renewed and designating goods and services in international classes 45, 41, 39, 38, 9, 42.

FACTUAL BACKGROUND

The Complainant, Tomtom International B.V., is a Dutch multinational developer and creator of location technology and consumer electronics. The Complainant has provided evidence of ownership of the registrations for the marks "TOMTOM".

The disputed domain name was registered on March 30, 2021 and resolved to an active page reproducing the Complainant's trademark. It currently resolves to an active page offering apparel for sale.

PARTIES CONTENTIONS

COMPLAINANT

The disputed domain name is identical to the Complainant’s trademarks TOMTOM and its domain names.

Per the Complaint, the Respondent is not known by the disputed domain name. The Complainant contends that Respondent is not authorized by the Complainant in any way and that Respondent and has made no use or preparation to use the domain name in good faith.

As regards the bad faith of the Respondent, the disputed domain name includes the well-known trademark TOMTOM. The Respondent has registered the domain name with full knowledge of the Complainant's trademark.

Furthermore, the Complainant argues that the disputed domain name is used in connection with an apparel store, even after the Complainant sent a cease-and-desist letter.

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 NOT, 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 NOT, 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

Notwithstanding the fact that no Response has been filed, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

(i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) that the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant must establish that it has a trademark or service mark and that the disputed domain name is identical or confusingly similar to that trademark or service mark for the Complainant to succeed.

The Complainant, Tomtom International B.V., is a Dutch multinational developer and creator of location technology and consumer electronics. The Complainant has provided evidence of ownership of the registrations for the marks "TOMTOM".

As regards the question of identity or confusing similarity for the purpose of the Policy, it requires a comparison of the disputed domain name with the trademarks in which the Complainant holds rights. According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), "this test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name".

Also, according to section 1.7 of the WIPO Overview 3.0, "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 for purposes of UDRP standing".

The Panel finds for the Complainant in that the disputed domain name is strictly identical to the trademarks of the Complainant.

It is well accepted by UDRP panels that a generic Top-Level Domain ("gTLD"), such as ".store", is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark.

This Panel concludes that the disputed domain name is identical to the Complainant's trademark and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests & Bad Faith

The second element of the Policy requires the Complainant to establish that the Respondent has no rights or legitimate interests in the disputed domain name, while the third element requires a showing that the disputed domain name has been registered and is being used in bad faith. Departing from the usual analytical sequence adopted in UDRP decisions, the Panel considers it appropriate in the circumstances of this case to address these two elements together, given their factual and legal interrelationship.

At the outset, the Panel recalls that the burden of proof rests on the Complainant with respect to both elements. The Complainant must establish its case on the balance of probabilities. Mere assertions or conclusory allegations are insufficient (Policy, paragraph 4(a)).

With respect to rights or legitimate interests, it is well established that once a complainant makes out a prima facie case, the burden of production shifts to the respondent to demonstrate relevant rights or legitimate interests. This evidentiary burden-shifting reflects the practical reality that information relating to a respondent's business activities or identity is often peculiarly within its knowledge or control. That said, the absence of a response does not automatically result in a finding for the complainant. A panel must assess the totality of the evidence on record and may, but is not required to, draw adverse inferences from a respondent's default.

The essence of the Complainant's position is that the TOMTOM trademark enjoys such international renown that the Respondent must necessarily have had the Complainant in mind when registering the disputed domain name, and that bad faith may therefore be inferred. The Complainant further relies on the fact that the Respondent is not authorized, licensed, or otherwise affiliated with it.

However, the mere absence of authorization does not, in itself, preclude a finding of rights or legitimate interests. UDRP panels have consistently held that third parties may, in appropriate circumstances, make legitimate use of a domain name identical or similar to a trademark, provided such use is not misleading and does not seek to take unfair advantage of the complainant's mark.

In the present case, the Panel finds no evidence of bad faith targeting beyond the asserted reputation of the Complainant's trademark. The Panel has carefully reviewed the record in search of indicia of bad faith and finds none.

There is no evidence that the Respondent has impersonated the Complainant or sought to reproduce its branding, logos, or trade dress. No misleading content suggesting sponsorship or affiliation has been identified. The website does not display pay-per-click advertising of a misleading nature. There is no indication of deceptive contact details, nor any evidence of phishing, counterfeiting, fraud, or other abusive commercial schemes.

Similarly, there is no evidence that the Respondent has sought to sell the disputed domain name to the Complainant or to any third party, nor that it has engaged in a pattern of abusive domain name registrations.

On the contrary, the record reflects that the disputed domain name has been used in connection with an online apparel business. The Panel further notes the existence of a corresponding social media presence promoting the same activity. These elements, which were not substantively addressed by the Complainant, tend to support the existence of an independent commercial undertaking rather than a pretextual or abusive use. The Panel also observes that the Complainant's trademark registrations do not cover clothing or apparel. While this is not determinative under the Policy, it constitutes a relevant factor when assessing whether the Respondent's apparel-related use evidences targeting of the Complainant.

The Panel also observes that certain relevant WHOIS details were not meaningfully engaged with in the Complaint. In particular, the Respondent's organization is listed as "tomtom," and the Respondent's contact email address incorporates the disputed term. The Complainant did not advance arguments or evidence to rebut the inference that the Respondent may be commonly known by the

disputed domain name.

In light of the above, the Panel finds that the Complainant has failed to establish, on the balance of probabilities, either that the Respondent lacks rights or legitimate interests in the disputed domain name or that the disputed domain name was registered and is being used in bad faith.

The Panel emphasizes that its finding is grounded in the evidentiary record before it. While the renown of a complainant's trademark may, in certain circumstances, support an inference of bad faith and absence of rights or legitimate interests, such an inference is not automatic and must be supported by additional indicia of targeting. Those indicia are lacking here.

Accordingly, the Complainant has failed to satisfy paragraphs 4(a)(ii) and 4(a)(iii) of the Policy, and the Complaint must therefore be denied.

The Panel adds that this denial is based on the present evidentiary record. It is issued without prejudice to the Complainant's right to refile a complaint should material new evidence arise shedding light on the Respondent's intentions or demonstrating bad faith registration and use.

Any such refiling must be grounded in genuinely new and substantive evidence and not merely a reformulation or expansion of the arguments currently before the Panel.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **tomtom.store**: Remaining with the Respondent

PANELLISTS

Name	**Arthur Fouré**

DATE OF PANEL DECISION 2026-02-13

Publish the Decision