Decision for dispute CAC-UDRP-108419

Case number	CAC-UDRP-108419
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Domain names	custom-writing.org

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Writera Limited

Respondent

Name	Olha Stoliarchuk

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

According to the submitted evidence, the Complainant owns the following Trademark:

-United States trademark for CUSTOMWRITINGS.COM (word mark), Reg. No. 5749163, registered on May 14, 2019, in force until November 14, 2029; in IC 41, namely: on-line academic assistance services (academic writing), including information on education; providing information about education; providing online writing and rewriting of articles, essays, memos, case studies, dissertations, literature analysis and reviews for journals, publications, online platforms and study purposes (other than for advertising or publicity); written text editing and proofreading of the foregoing; and related academic writing assistance services.

FACTUAL BACKGROUND

The Complainant is a Cypriot legal entity, registered in 2020[1], but active since 2008[2]. The Complainant offers writing services, including in the academic field.

According to the Complainant's website, the Complainant is a corporation of more than 80 academic writing websites, such as https://www.essayhave.com/, https://www.customwritings.com/, https://www.advancedwriters.com/, https://www.affordablepapers.com/, https://cheapwritingservice.com/, that help their clients with writing texts for their websites, marketing campaigns, and business projects, on top of providing them with customized guides, samples, and writing directions.

The Complainant also owns the domain name <customwritings.com>, registered since October 10, 2005.

According to the submitted evidence, the Complainant contends that by the time the Respondent created the disputed domain name on August 19, 2006, the Complainant had already established an active online presence via <customwritings.com> created on October 10, 2005, and had publicly offered the relevant services by at least February 06, 2006 (Wayback Machine evidence).

The Respondent is an independent business focused on the writing business and has been using descriptive terminology for many years. The Respondent operates the website independently and has never been affiliated with the Complainant.

According to the evidence submitted by the Respondent, the disputed domain name was originally registered on August 19, 2006,

and publicly available shortly after registration on December 02, 2006, and since that time, it has been used continuously in connection with a writing services website.

[1] https://www.companies.gov.cy/en/21-eservices/esearch-in-business-entity-s-registry

[2] According to their own website https://writera.ltd/

PARTIES CONTENTIONS

Response

Respondent Contentions:

In summary, the Respondent contends that:

1) The disputed domain name was originally registered in 2006, and the website has remained continuously active since then. The disputed domain name has been used continuously in connection with a writing services website since 2006, and the website was publicly available shortly after registration, i.e., on December 02, 2006, as confirmed by the Internet Archive (Wayback Machine records).

2) Evidence of long-standing commercial activity includes anonymized screenshots of the Respondent's internal order management system showing numerous completed customer orders placed through the website across many years, including orders dating back to 2007 and continuing through the subsequent years. The Respondent operates the website independently and has never been affiliated with the Complainant.

3) The disputed domain name is neither identical nor confusingly similar to the protected mark given that the phrase "custom writing" is descriptive and has been widely used by numerous service providers, publications, and discussions relating to academic writing services for many years, including prior to the Complainant's alleged use of the denomination; that because the disputed domain name consists of descriptive terminology, minor variations such as hyphenation or pluralization do not create exclusive trademark rights for the Complainant.

4) The Respondent has rights and/or legitimate interests in respect of the disputed domain name, given that it has been used since 2006 in connection with a bona fide offering of writing services, which is confirmed by the provided evidence; the Respondent's website has continuously operated as an independent business and uses descriptive terminology commonly employed within the industry; that the Respondent has used the disputed domain name in its ordinary descriptive sense in connection with its own independent services.

5) The disputed domain name was not registered and is not being used in bad faith, given that the disputed domain name was registered in 2006, long before the Complainant obtained its trademark registration in 2019; the phrase "custom writing" is a descriptive terminology used in the industry; there is no evidence that the Respondent registered the domain name to target the Complainant; the Respondent did not copy or seeks to imitate the Complainant's branding, logo, or website design, which is showed from the Internet Archived records; that the Respondent has simply operated an independent business using descriptive terminology for many years.

Complainant Contentions:

In summary, the Complainant contends that:

1) The disputed domain name is confusingly similar to the trademark CUSTOMWRITINGS.COM, which is clearly recognizable, and that the differences are minor, non-distinctive, and insufficient to dispel confusion; that the disputed domain name wholly incorporates the dominant textual elements of the Trademark, namely the combination of "custom" and "writing(s)"; that the only changes are: (i) the insertion of a hyphen ("custom-writing" instead of "customwritings"); (ii) the use of the singular form "writing" rather than "writings"; and (iii) the use of the ".org" gTLD rather than ".com"; that such changes do not alter the overall commercial impression of the name. That Internet users are likely to perceive the disputed domain name as a variant of the Complainant's Trademark and domain name <customwritings.com>, particularly in the context of identical services offered online.

2) **Wayback Machine evidence**: in particular, the Complainant contends that, according to the evidence provided by the Internet Archive Wayback Machine by **February 06, 2006** the Complainant's website at 'customwritings.com' was already publicly accessible and used to offer academic writing services and associated education support services consistent with Class 041; that such capture shows, inter alia, the promotion of custom academic papers (e.g., essays, term papers, research papers, reports, reviews, speeches, presentations), the emphasis on expedited delivery (including a 12-hour completion proposition), and assurances relevant to originality/plagiarism and confidentiality.

The **disputed domain name was created on August 19, 2006**, i.e., after the Complainant's domain name <customwritings.com> (created 10 October 2005) and after the Complainant's documented public-facing use in early 2006.

The Internet Archive Wayback Machine capture dated **December 02, 2006**, evidence that the Respondent's website at 'custom-writing.org' was publicly accessible and offered substantially similar academic writing services, including an order/pricing interface, deadline tiers, expedited delivery propositions, and explicit anti-plagiarism assurances (including a "free plagiarism report" type statement).

By the time the Respondent created the disputed domain name on **August 19, 2006**, the Complainant had already established an active online presence via customwritings.com (created 10 October 2005) and had publicly offered the relevant services by at least **February 06, 2006** (Wayback evidence).

3) The Respondent has no rights or legitimate interests in respect of the disputed domain name given that the Respondent is not related in any way to is not related in any way to WRITERA LIMITED. The Complainant has not authorized, licensed, or otherwise permitted the Respondent to use the Trademark CUSTOMWRITINGS.COM (or any confusingly similar designation) and has had no business relationship with the Respondent; that the Respondent is not commonly known by the disputed domain name; that there is no evidence that the Respondent, as an individual, business, or other organization, has been legitimately known as "CustomWritings," "Custom Writing," or "custom-writing.org"; that the Respondent has used the disputed domain name to offer identical or highly similar academic writing assistance services to those offered by the Complainant under the Trademark, which inherently trades on the confusing similarity between the disputed domain name and the Trademark and is apt to mislead Internet users as to source, sponsorship, affiliation, or endorsement.

4) The disputed domain name has been registered and is being used in bad faith, given that the Respondent deliberately adopted the disputed domain name incorporating the dominant textual elements of the Complainant's Trademark CUSTOMWRITINGS, as an intent to capitalize on the Complainant's goodwill by creating a likelihood of confusion as to source, sponsorship, affiliation, or endorsement, particularly given that by December 02, 2006, the Respondent's website was offering the same type of academic writing assistance services, including order/pricing functionality, expedited delivery propositions, and anti-plagiarism assurances, in the same commercial field as the Complainant; that the Respondent has failed to respond to the Complainant's cease-and-desist letter, understood as an inference of bad faith; that the Respondent knew or should have known of the Complainant's prior rights and online presence, given that: (a) The Complainant's domain name <customwritings.com> was created on October 10, 2005 and was publicly used for the relevant services by at least February 06, 2006; (b) the Respondent's disputed domain name was created later, on August 19, 2006; and (c) the Respondent has used the disputed domain name for identical or highly similar services, which, by its nature, targets the same audience searching for "custom writing/custom writings/customwriting/customwritings" services and is apt to divert traffic by leveraging confusion with the Complainant's brand.

RIGHTS

The Complainant has shown that the disputed domain name is 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 shown that the Respondent has 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 shown that 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

Identical or Confusingly Similar

In this case, based on the provided evidence, the Complainant has shown rights, in respect of the trademark CUSTOMWRITINGS.COM since May 2019, for the purposes of the Policy (see WIPO Overview 3.1, section 1.2.1).

Concerning the unregistered trademark rights, the Panel notes that the Complainant claimed an "active online presence" since 2005 and that "the Complainant invested significant efforts to advertise and promote its services under the trade name/mark CUSTOMWRITINGS.COM, leading to increased recognition among customers and the accumulation of customer feedback and reviews on third-party platforms" based on irrelevant material such as 1) a single printout of the Wayback Machine from 2006 related to the disputed domain name, and 2) an undated single printout of a third party's review apparently from 2015, which has made it impossible for the Panel to consider it, in particular given the previous instance Writera Limited v. Baklan Iaroslav, CAC-UDRP 104234.

In such an extraordinary analysis, the Panel states that:

> "To establish unregistered or common law trademark rights for purposes of the UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or services.
>
> **Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys.**
>
> Specific evidence supporting assertions of acquired distinctiveness should be included in the complaint; conclusory allegations of unregistered or common law rights, even if undisputed in the particular UDRP case, would not normally suffice to show secondary meaning. **In cases involving unregistered or common law marks that are comprised solely of descriptive terms which are not inherently distinctive, there is a greater onus on the complainant to present evidence of acquired distinctiveness/secondary meaning**." (Emphasis added).

However, in this case, given the technical nature of the first element of the Policy, the Panel accepts that the entirety of the trademark is reproduced within the disputed domain name, in this case, including a hyphen, and a '.com', which are sufficient to establish confusing similarity for purposes of the Policy (see WIPO Overview 3.1, section 1.7 and 1.9).

Concerning the applicable generic Top-Level Domain ("gTLD") ".org", it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark, as it is a technical requirement of registration (see WIPO Overview 3.1, section 1.11.1).

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

Rights or Legitimate Interest

Having reviewed the entire records, to this Panel it is clear that:

- The Complainant established its trademark rights by 2019. The Respondent registered the disputed domain name on August 19, 2006, meaning more than 10 years before the Complainant acquired its trademark rights over the term or phrase CUSTOMWRITINGS.COM on May 14, 2019.

- The Respondent operates the website independently and has never been affiliated with or targeted the Complainant. Since its creation on August 19, 2006, the Respondent has used the disputed domain name with a dictionary word's meaning -being two in this case-, in connection with its own independent writing services. Therefore, the disputed domain name has been used in connection with a bona fide offering of goods or services, in this case, the writing services, as set out in paragraph 4(c)(i) of the Policy. Therefore, the Respondent owns rights and legitimate interests in respect of the disputed domain name (see WIPO Overview 3.1, section 2.10).

The Panel finds that the second element of the Policy has not been established.

Registration and Bad Faith Use:

In this case, nothing in the records could suggest that at the time of the registration of the disputed domain name, the Respondent was seeking to take advantage of, or seeking to imitate the Complainant, especially as in this case, without established trademark rights, distinctiveness, or recognition in place by 2006. The use given by the Respondent since 2006 corresponds to a legit writing business.

To this Panel, the logic behind this case is as simple as pretending to claim an exclusive right over the mere action of "writing books" or "selling books". Here, certainly, each author has the duty or challenge to develop their own script, or to design their own bookstore system, but no one can prevent the other from writing or running a business.

The Panel finds that the third element of the Policy has not been established.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **custom-writing.org**: Remaining with the Respondent

PANELLISTS

Name	**María Alejandra López García**

DATE OF PANEL DECISION 2026-03-30

Publish the Decision