Decision for dispute CAC-UDRP-108441

Case number	CAC-UDRP-108441
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Domain names	ghirardellidark.com

Case administrator

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

Complainant

Organization	Chocoladefabriken Lindt & Sprüngli AG

Complainant representative

Organization	SILKA AB

Respondent

Name	Andrew Carter

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 states that it is the owner of the following trademark registrations:

- Mexican national trademark registration No. 2712346 “GHIRARDELLI”, registered on 10 June 2024, for goods in class 30;
- Swiss national trademark registration No. 502680 “GHIRARDELLI”, registered on 29 August 2002, for goods and services classes 30, 35, 43;
- US national trademark registration No. 205776 “GHIRARDELLI”, registered on 17 November 1925, for products in class 30;
- EUTM trademark registration No. 005638762 “GHIRARDELLI”, registered on 4 February 2008, for goods in classes 6, 14, 16, 18, 21, 25, 28;
- EUTM trademark registration No. 003716453 “GHIRARDELLI”, registered on 27 July 2005, for products and services in classes 30, 35, 42, 43;
- International trademark registration No. 936941 “GHIRARDELLI”, registered on 27 July 2007, for goods and services in classes 6, 14, 16, 18, 21, 25, 28, 41;
- International trademark registration No. 826074 “GHIRARDELLI”, registered on 30 March 2004, for classes 30, 35, 43.

The Complainant proved its ownership of the aforementioned trademark registrations by the submitted extracts from the IMPI, IGE, USPTO, WIPO Madrid and EUIPO databases.

FACTUAL BACKGROUND

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The Complainant (founded in 1845) is a Swiss producer of chocolate and confectionery products and is widely recognized as a global leader in the premium chocolate sector. Its brands, including Ghirardelli, are sold in over 120 countries. The Complainant employs roughly 15,000 people and reported CHF 5.47 billion in sales and CHF 884 million in operating profit in 2024.

The Complainant notes that it acquired the Ghirardelli Chocolate Company ("Ghirardelli") in 1998. Established in 1852, Ghirardelli is one of the oldest chocolate makers in the United States and is headquartered in San Francisco, California. In fiscal year 2024, Ghirardelli generated USD 888 million in sales. Its products are distributed through a broad network of stores, retail partners, and wholesale channels.

To support the marketing and distribution of its products, the Complainant owns an extensive global portfolio of registered trademarks.

The Complainant also maintains a strong online presence linked to the GHIRARDELLI mark, including its ownership of the domain name <ghirardelli.com> (registered on 24 June 1998). This website provides extensive information about the Complainant and its GHIRARDELLI-branded products. In addition, the GHIRARDELLI mark benefits from substantial visibility across major social media platforms like Instagram, with more than 170,000 followers.

The disputed domain name <ghirardellidark.com> (hereinafter "disputed domain name") was registered on 28 January 2026. According to the Registrar, the Respondent is 'Andrew Carter'. The Respondent's provided address as being in the US.

PARTIES CONTENTIONS

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

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 UDRP).

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 UDRP).

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 UDRP).

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

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant. Therefore, the Panel proceeds to decide only on the basis of the Complainant's factual statements and the documentary evidence provided in support of them [Paragraph 5(f) of The Rules].

1. CONFUSING SIMILARITY

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

The WIPO Overview 3.0 in Paragraph 1.2.1 states: "Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case."

The WIPO Overview 3.0 in Paragraph 1.7 states: "[…] in cases where a domain name incorporates the entirety of a trademark […] the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

The WIPO Overview 3.0 in Paragraph 1.8 states: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. […]"

The WIPO Overview 3.0 in Paragraph 1.11.1 states: "The applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test."

In the present case, the Complainant has established that it owns numerous national, international and EUTM trademark registrations for the GHIRARDELLI term.

In the disputed domain name, the GHIRARDELLI trademark is clearly recognizable. The addition of general term "dark" is not sufficient to prevent the finding of confusing similarity. On the other hand, in connection with chocolate products, this term might increase the risk of confusion for the relevant public.

This Panel is of the view that the disputed domain name is confusingly similar to the GHIRARDELLI trademark.

The ".com" element of the disputed domain name does not affect the finding of confusing similarity.

As a result, the Panel finds that the Complainant has satisfied Paragraph 4(a)(i) of the UDRP.

2. THE RESPONDENT´S LACK OF RIGHTS OR LEGITIMATE INTEREST IN THE DISPUTED DOMAIN NAME

The Panel finds that the Respondent lacks rights or legitimate interest in the disputed domain name.

According to Paragraph 4(a)(ii) of the UDRP, the Complainant shall make a case that the Respondent lacks rights and legitimate interests in the disputed domain name. If the Complainant fulfils this demand the burden of proof shifts to the Respondent and so the Respondent shall demonstrate rights or legitimate interests in the disputed domain name. If the Respondent fails to prove its rights or legitimate interests, it is assumed that the Complainant satisfied the element of Paragraph 4(a)(ii) of the UDRP (see CAC Case No. 102430, Lesaffre et Compagnie v. Tims Dozman). Moreover, past panels were of the view that it is difficult or sometimes impossible to prove negative facts, i.e., absence of rights or legitimate interest on the part of the Respondent. In this respect, past panels referred to the WIPO Case No. D2000-1769, Neusiedler Aktiengesellschaft v. Vinayak Kulkarni. Within the meaning of Paragraph 4(a)(ii) of the UDRP, once the complainant has made something credible (prima facie evidence), the burden of proof shifts to the Respondent to show that he has rights or legitimate interests in the domain name at issue by providing concrete evidence.

The WIPO Overview 3.0 in Paragraph 2.5.1 states: "Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation."

The WIPO Overview 3.0 in Paragraph 2.8.1 states: "Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Oki Data test", the following cumulative requirements will be applied in the specific conditions of a UDRP case: (i) the respondent must actually be offering the goods or services at issue; (ii) the respondent must use the site to sell only the trademarked goods or services; (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark. The Oki Data test does not apply where any prior agreement, express or otherwise, between the parties expressly prohibits (or allows) the registration or use of domain names incorporating the complainant's trademark."

The WIPO Overview 3.0 in Paragraph 2.13.1 states: "Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. Particularly in the case of counterfeits and pharmaceuticals, this is true irrespective of any disclosure on the related website that such infringing goods are "replicas" or "reproductions" or indeed the use of such term in the domain name itself".

The Complainant claims that the Respondent does not have trademark rights (evidenced by trademark search in WIPO Global Brands) for, nor is it commonly known (proved by the simple Google search) by the disputed domain name. The Respondent is not either connected to or affiliated with the Complainant and has not received license or consent to use the GHIRARDELLI mark as part of the disputed domain name or in any way. Moreover, "ghirardellidark" does not appear to have any meaning in the English language (evidenced by the dictionary search).

The Complainant submits that the Respondent has not used, nor prepared to use, the disputed domain name in connection with a bona fide offering of goods or services, nor a legitimate non-commercial or fair use. Although the disputed domain name does not currently resolve to an active site (proved by the screenshot of the respective website) as a result of the takedown request submitted by the Complainant, it previously resolved to a website that impersonated the Complainant by passing itself off as an official GHIRARDELLI online store (proved by the screenshot of the previous version of the respective website). This website prominently displayed the Complainant's GHIRARDELLI logo and images of GHIRARDELLI-branded items offered at steeply discounted prices. Internet users were invited to select items, add them to a shopping cart, and proceed to a payment page requesting personal and payment details. This overall presentation and functionality were plainly designed to mislead Internet users into believing that the website was operated by, or affiliated with, the Complainant.

For completeness, the Complainant also notes that the Respondent has not made (and is not making) a fair use of the disputed domain name as a reseller within the context of the cumulative Oki Data criteria. In particular, the Respondent has not accurately and prominently disclosed its relationship with the Complainant. On the contrary, the Respondent's repeated use of the GHIRARDELLI mark and product imagery is plainly calculated to convey an impression of legitimacy and corporate affiliation. Such conduct reinforces the false impression that the website is operated, endorsed, or controlled by the Complainant, and is fundamentally incompatible with any bona fide or fair reseller use under the Oki Data principles.

Finally, taking all of the above into account, and noting that the disputed domain name incorporates the entirety of the Complainant's GHIRARDELLI mark together with a term closely related to the Complainant's activities, there is no doubt that the disputed domain name carries a significant risk of implied false affiliation with the Complainant and its activities.

The Respondent did not file any Response to the Complaint. Thus, the Respondent failed to demonstrate rights or legitimate interest in the disputed domain name.

To the satisfaction of the Panel, the Complainant made a prima facie case that there is no connection between the Complainant and the Respondent and that the Respondent does not have authorization in the disputed domain name or in the trademark GHIRARDELLI from the Complainant.

Moreover, the Complainant submitted evidence from which it is clear that the Respondent is not recognized under the disputed domain name.

At the moment, the Respondent is passively holding the disputed domain name, because the corresponding website is inactive after the Complainant's abuse report. Besides, the Complainant submitted evidence that the Respondent recently used the disputed domain name to impersonate the Complainant, its trademarks, products and services. No legitimate interest can be found in this conduct.

Even if the Respondent would claim that he is a reseller/distributor of the Complainant's products, in the circumstances of the present case, the requirement (iii) of the Oki Data test is not met, since the corresponding website did not disclose the Respondent's relationship with the Complainant.

The Panel is of the view that the Respondent has no rights or legitimate interest in the disputed domain name.

Therefore, the Panel finds that the Complainant has satisfied the requirement under Paragraph 4(a)(ii) of the UDRP.

3. THE REGISTRATION AND USE OF THE DISPUTED DOMAIN NAME IN BAD FAITH

The Panel finds that the Respondent registered and uses the disputed domain name in bad faith.

The WIPO Overview 3.0 in Paragraph 3.1.4 states: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith […]."

The WIPO Overview 3.0 in Paragraph 3.3 states" "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

In the CAC Case No. 107505, Chewy, Inc. v. Bopan Zack, the Panel stated that: "The Complainant has submitted uncontested evidence that the disputed domain name resolves to a website that imitates the Complainant's official site, using its name and logo without authorization and purporting to offer similar goods and services. The disputed domain name is further promoted through Facebook advertisements that reinforce a false association with the Complainant. The Panel finds that the Respondent's conduct is intended to mislead consumers and divert traffic for commercial gain, by creating a likelihood of confusion with the Complainant's trademark."

In the present case, the Complainant has established that it owns numerous national, international and EUTM trademark registrations for the GHIRARDELLI term.

The Panel finds the disputed domain name to be confusingly similar (see part I. above). This finding is one of the bad faith indicators.

Past panels have found that the GHIRARDELLI trademark is well-known and highly distinctive (see, e.g., the CAC UDRP Cases No. 108014, No. 107961 or No. 107226).

The Panel is of the opinion that the Respondent must have been aware of the Complainant, its trademark and business activities at the moment of registering the disputed domain name on 28 January 2026.

Following the aforementioned description of the Respondent's conduct in the disputed domain name, the Panel finds that the Respondent's intention in registering the disputed domain name was to divert Internet users to the website which impersonated and imitated the Complainant, its trademarks, products and services, for the purpose of the Respondent's own commercial gain.

After the Complainant's abuse report, the content of the respective website was removed. At the moment, the website is inactive. This Panel finds that the Respondent is passively holding the disputed domain name, based on the following circumstances:

- The GHIRARDELLI trademark is well-known and highly distinctive;
- the Respondent did not file any Response to the Complaint;
- the disputed domain name wholly incorporates the Complainant's trademark together with the term "dark", a term closely related to the Complainant due to its range of dark-chocolate products;
- the respective website previously associated with the disputed domain name was likely designed to impersonate an official online store, without accurately and prominently disclosing its lack of relationship with the Complainant.

Based on the previously mentioned facts, the Panel is of the view that the Respondent did not register and is not using the disputed domain name in good faith.

Following the above-mentioned, the Panel finds that the Complainant has satisfied conditions pursuant to Paragraph 4(a)(iii) of the UDRP.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ghirardellidark.com**: Transferred

PANELLISTS

Name	**Radim Charvát**

DATE OF PANEL DECISION 2026-03-29

Publish the Decision