Decision for dispute CAC-UDRP-108447

Case number	CAC-UDRP-108447
Time of filing	2026-02-27 10:31:26
Domain names	miyabi-knives.org, miyabiknives.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ZWILLING J.A. Henckels AG

Complainant representative

Organization	Zacco Sweden AB

Respondents

Name	Maxim Smirnov
Name	Oleg Tsegelnyk

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 is the registrant, among others, of the EU trademark registration No. 0886389, “MIYABI", registered on October 28, 2005, for goods and services in classes 8, 11 and 21.

The disputed domain name <miyabiknives.com> was registered on October 2, 2023. The disputed domain name <miyabi-knives.org> was registered on March 14, 2024.

FACTUAL BACKGROUND

The Complainant points out that Miyabi is one of its brands, specialized in Japanese kitchen knives.

The Complainant clarifies that Miyabi knives are manufactured in Seki (Japan) and are well-known by culinary professionals worldwide.

The Complainant claims that the disputed domain names are confusingly similar to the “MIYABI" trademark. The Complainant observes that the trademark “MIYABI" is included in its entirety in the disputed domain names, with the addition of the generic term “knives” which is closely associated with the Complainant and its trademark.

The Complainant states that shortly before the lodging of the complaint:

- it issued several take down and cease and desist notices regarding the disputed domain names but the Respondent did not comply with them;

- there was no evidence that the Respondent was known by the disputed domain names or owned a corresponding registered mark;

- there was no evidence that the Respondent used the disputed domain names in connection with a bona fide offering of goods and services;

- the disputed domain names were being used for a commercial purpose, in particular in the framework of an affiliate advertising program;

- the Respondent was using the Complainant’s logo on the websites connected to the disputed domain names;

- the Respondent was impersonating the Complainant throughout the websites, by using statements like “Miyabi Official Website“.

Taking into account the fact that the websites connected to the disputed domain names contained similar content to the Complainant's official website, the Complainant considers that the Respondent attempted to target and deceive consumers and lead them to believe that the disputed domain names are operated by the Complainant. The Complainant points out that impersonation is an example of bad faith registration and use.

The Complainant submits that by creating a likelihood of confusion as to the source, sponsorship, or affiliation of the websites, the Respondent is intentionally attempting to attract internet users for commercial gain by exploiting the goodwill of the Complainant’s mark.

PARTIES CONTENTIONS

The Complainant, relying on the arguments summarised above, contends that the requirements of the Policy have been met and that the disputed domain names should be transferred to it.

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

CONSOLIDATION OF THE COMPLAINT FOR THE DISPUTED DOMAIN NAMES

It is well established that where the particular circumstances of a given case indicate that common control is being exercised over the disputed domain names, consolidation may be granted, provided that it would be fair and equitable to all parties.

The Complainant considers that the Respondent is the same for the two domain names in dispute.

The Complainant points out that the disputed domain names have been registered using the same registrar and contain the Complainant's trademark followed by the same word "KNIVES". The Complainant submits that the websites related to the disputed domain names have visual and textual similarities. The Complainant adds that the websites related to the disputed domain names have an identical product cataloguing and refer to the same affiliate advertising program.

The Complainant asserts that, in the light of the above, the disputed domain names are under the effective control of a single person or organisation.
The Panel agrees with the Complainant's arguments and, in line with decisions of other panels in similar cases (see, for example, WIPO Case No. D2023-1121), considers that, on the balance of probabilities, the disputed domain names are under the control of a single person or organisation.

Therefore, the Panel decides to grant the requested consolidation.

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 accordance with paragraph 4(a) of the Policy, in order to obtain the transfer of a domain name, the complainant has to demonstrate that:

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

(ii) The respondent has no rights or legitimate interests in respect of the domain name; and

(iii) The domain name has been registered and is being used in bad faith.

IDENTICAL OR CONFUSINGLY SIMILAR

The first requirement that the Complainant must establish is that the disputed domain names are identical with, or confusingly similar to, the Complainant’s trademark.

There are two elements of this test: for each domain name, the Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the disputed domain names must be shown to be identical or confusingly similar to the trademark or service mark.

The Complainant has proven ownership of the registered trademark "MIYABI", identified in section "Identification of rights" above.

The Panel observes that the registration of the Complainant's trademark predates the registration of the disputed domain names.

On the question of identity or confusing similarity, what is required is simply a comparison and assessment of the disputed domain names to the Complainant’s trademark.

The disputed domain names differ from the Complainant’s trademark "MIYABI" by the addition of the word "KNIVES" (preceded, in <miyabi-knives.org> by a hyphen) and by the top-level domain.

It is well accepted that the hyphen is not relevant in the confusing similarity test (see, for example, WIPO case No. D2016-0676).

It is a common view that where a trademark is the distinctive part of a domain name, the domain name is considered to be confusingly similar to the trademark (see, for example, WIPO case No. D2017-1266).

In the present case, the generic term "KNIVES" (related to the product concerned) has no impact on the distinctive part “MIYABI”. It is well established that, where the relevant trademark is recognizable within the domain name, the addition of other terms would not be sufficient to prevent a finding of confusing similarity (see, for example, CAC case No. 104755).

The Panel observes that it is well established that the top-level domain may generally be disregarded in the confusing similarity test (see, for example, WIPO case No. D2016-2547).

Therefore, the Panel considers that the disputed domain names are confusingly similar to the Complainant's trademarks.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

RIGHTS OR LEGITIMATE INTERESTS

The second requirement that the Complainant must prove is that the Respondent has no rights or legitimate interests in each of the disputed domain names.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the respondent has rights or legitimate interests in a domain name:

(i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or

(ii) [the Respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the Respondent] [has] acquired no trademark or service mark rights; or

(iii) [the Respondent] [is] making a legitimate non-commercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

This is a non-exhaustive list of circumstances in which a respondent can show rights or legitimate interests in a domain name.

The onus of proving this requirement falls on the Complainant. UDRP panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative".

Accordingly, it is usually sufficient for a complainant to raise a prima facie case against the respondent and the burden of proof on this requirement shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in a domain name.

The Panel finds that the Complainant has made out a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain names.

In particular, the Complainant states that shortly before the lodging of the complaint:

- it issued several take down and cease-and-desist notices regarding the disputed domain names but the Respondent did not comply with them;

- there was no evidence that the Respondent was known by the disputed domain names or owned a corresponding registered mark;

- there was no evidence that the Respondent used the disputed domain names in connection with a bona fide offering of goods and services;

- the disputed domain names were being used for a commercial purpose, in particular in the framework of an affiliate advertising program;

- the Respondent was using the Complainant's logo on the websites connected to the disputed domain names;

- the Respondent was impersonating the Complainant throughout the websites, by using statements like "Miyabi Official Website".

In the absence of a Response, there is no indication in the present case that the Respondent is commonly known by the disputed domain names.

Furthermore, the Respondent has failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under paragraph 4(c) of the Policy or other evidence of rights or legitimate interests in the disputed domain names.

The Respondent does not appear to make any legitimate non-commercial or fair use of the disputed domain names, nor any use in connection with a bona fide offering of goods or services. Indeed, shortly before the lodging of the complaint the disputed domain names resolved to websites impersonating the Complainant. The Panel notes that, in line with the view of other panels, the fact that a website has been taken down after the receipt of a cease and desist notice supports the lack of rights or legitimate interests (see, for example, WIPO Case No. D2025-0786).

The Panel considers that, on the balance of probability, the Respondent knew the Complainant's trademark and registered the disputed domain names with knowledge of the Complainant's rights. Indeed, it is not conceivable that the Respondent did not have the Complainant's trademark in mind, when registering and using the disputed domain names. Under these circumstances, it cannot be concluded that the Respondent is making a "fair" use of the disputed domain names.

Taking into account that the Complainant issued several take down and cease and desist notices but they have been ignored by the Respondent, that the Respondent is not known as the disputed domain names and that the disputed domain names lead to websites impersonating the Complainant and referred to an affiliate advertising program, the Panel cannot imagine any possible legitimate justification for this use, and the Respondent has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain names.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

REGISTERED AND USED IN BAD FAITH

Under the third requirement of the Policy, the Complainant must establish that the disputed domain names have been both registered and used in bad faith by the Respondent.

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, including:

(i) circumstances indicating that [the Respondent] [has] registered or [has] acquired the [disputed] domain name primarily for the purpose of selling, renting, or otherwise transferring the [disputed] domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the Respondent's] documented out-of-pocket costs directly related to the [disputed] domain name; or

(ii) [the Respondent] [has] registered the [disputed] domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the Respondent] [has] engaged in a pattern of such conduct; or

(iii) [the Respondent] [has] registered the [disputed] domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the [disputed] domain name, [the Respondent] [has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the Respondent's] web site or location or of a product or service on [the Respondent's] web site or location.

The Panel, on the basis of the evidence presented, agrees with the Complainant's contentions that the disputed domain names were registered in bad faith and that they have been used in bad faith.

Other panels considered that knowledge of a corresponding mark at the time of the domain name’s registration can suggest bad faith (see WIPO Case No. D2017-0100). The Panel shares this view.

The Panel agrees also that, on the balance of probabilities, the Respondent has registered and is using the disputed domain names primarily with the intention of attracting Internet users to its websites for commercial purposes by creating a likelihood of confusion with the Complainant's trade mark as to the origin, sponsorship, affiliation or endorsement of those websites.

The Panel observes that if the Respondent had legitimate purposes in registering and using the disputed domain names it would have filed a Response in this proceeding. The Panel notes that the fact that a website has been taken down after the receipt of a cease and desist notice does not prevent a finding of bad faith registration and use (see, for example, WIPO Case No. D2023-3082).

The Panel, having taken into account the Respondent's knowledge of the Complainant's trademarks at the time of the disputed domain names’ registration and the use of the disputed domain names in websites impersonating the Complainant, which contain statements like “Miyabi Official Website“, considers that the disputed domain names were registered and are being used in bad faith.

Accordingly, the Panel finds that the disputed domain names were registered and are being used in bad faith within the meaning of 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. **miyabi-knives.org**: Transferred
2. **miyabiknives.com**: Transferred

PANELLISTS

Name	**Michele Antonini**

DATE OF PANEL DECISION 2026-04-04

Publish the Decision