Decision for dispute CAC-UDRP-108643

Case number	CAC-UDRP-108643
Time of filing	2026-05-18 09:41:22
Domain names	ITAIRWAYSVIRTUAL.COM

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ITALIA TRASPORTO AEREO S.p.A.

Complainant representative

Organization	Barzanò & Zanardo Milano S.p.A.

Respondent

Name	Nicola Podda

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 is the owner of the following trademark registrations for ITA (the "ITA trademark") and ITA AIRWAYS (the "ITA AIRWAYS trademark"):

− the European Union trademark ITA (combined) with registration No. 018685967, registered on 24 September 2022 for goods and services in International Classes 3, 9, 12, 14, 16, 18, 20, 21, 24, 25, 26, 28, 30, 33, 34, 35, 37, 39, 42 and 43; and

− the European Union trademark ITA AIRWAYS (word) with registration No. 018775945, applied for on 13 October 2022 and registered on 19 April 2023 for services in International Class 39.

FACTUAL BACKGROUND

The Complainant is the Italian flagship airline and operates under the brand ITA AIRWAYS. It was established on 21 December 2020. In 2021, it acquired the business of the former Alitalia - Societa Aerea Italiana S.p.A. in Amministrazione Straordinaria. The Complainant is the owner of the domain name <ita-airways.com>, registered on 4 October 2021, which it uses for its official website.

The disputed domain name was registered on October 26, 2022. It is currently inactive. At the time of the filing of the Complainant, the disputed domain name resolved to an Italian language website with the title "Ita Airways Virtual – Official Virtual Airline - Ita

Airways Virtual". The website displayed images of ITA AIRWAYS-branded airplanes, and promoted a flight simulator with the following announcement:

"ITA Airways Virtual e' una compagnia aerea Virtuale con sede in Italia, fondata nel 2022, il cui intento e' quello di creare un ambiente comunitario e amichevole tramite voli di gruppo, canali Discord, gruppi Whatsapp, Facebook e canali di supporto diretti. Ai piloti viene offerta l'opzione di volare le rotte Schedulate reali e i charter ufficiali, ovvero tutti i voli operati da ITA AIRWAYS nel reale.

[…]

Cosa offre questa collaborazione?

Accesso a tutti i voli reali programmati da ITA Airways: Ora puoi volare seguendo gli stessi itinerari del mondo reale, guadagnando vCash per ogni volo completato.

Type Rating basato su acquisti nel Virtual Shop di vPilotsHub: Acquista i Type Ratings per sbloccare nuovi aeromobili e rotte esclusive.

[…]

Nuovi e appassionanti Tours: Scopri una vasta gamma di tours tematici aggiornati annualmente, che offrono premi sostanziosi alloro completamento, con remunerazioni che possono superare i 50.000 vEuro."

In English:

"ITA Airways Virtual is a virtual airline based in Italy, founded in 2022, whose aim is to create a friendly, community-oriented environment through group flights, Discord channels, WhatsApp groups, Facebook and direct support channels. Pilots are offered the option to fly real-world scheduled routes and official charter flights – in other words, all flights operated by ITA Airways in the real world.

[…]

What does this partnership offer?

Access to all real-world flights operated by ITA Airways: You can now fly the same routes as in the real world, earning vCash for every flight completed.

Type Ratings based on purchases in the vPilotsHub Virtual Shop: Purchase Type Ratings to unlock new aircraft and exclusive routes.

[…]

New and exciting tours: Discover a wide range of themed tours, updated annually, offering substantial rewards upon completion, with payouts that can exceed 50,000 vEuro."

The website also displayed the copyright notice "Copyright © 2026 | Ita Airways Virtual".

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant states that the disputed domain name is confusingly similar to the ITA and ITA AIRWAYS trademarks, because it reproduces these trademarks in their entirety, and the addition of the dictionary term "virtual" does not preclude a finding of confusing similarity with the Complainant's trademarks.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not an authorised dealer, agent, distributor or reseller of the Complainant and has not been authorised to register and use the ITA and ITA AIRWAYS trademarks in domain names. The Complainant points out that the disputed domain name resolves to a website that reproduces images of ITA AIRWAYS-branded airplanes and promotes a flight simulator. According to the Complainant, this use does not represent a bona fide offering of goods and services or a legitimate non-commercial or fair use of the disputed domain name. Rather, the Respondent is taking advantage of the reputation of the ITA and ITA AIRWAYS trademarks to promote a flight simulator without authorisation by the Complainant.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant notes that the disputed domain name was registered shortly after the Complainant started using the ITA AIRWAYS trademark and filed the application for its registration, and several months after the Complainant registered the ITA trademark. According to the Complainant, the Respondent's knowledge of the ITA and ITA AIRWAYS trademarks is evident from their use alongside images of the Complainant's airplanes on the website at the disputed domain name.

The Complainant points out that its trademarks are used, without any authorisation, to promote a third-party flight simulator, which reproduces the airplane routes of the Complainant's airplanes. According to the Complainant, since the website at the disputed

domain name uses the ITA and ITA AIRWAYS trademarks and images of the Complainant's airplanes, Internet users may believe that the disputed domain name and its content are part of the Complainant's official network, and the Respondent would take undue advantage from the reputation of the ITA trademark.

RESPONDENT:

The Respondent did not submit a Response in this proceeding.

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 notes that the Respondent stated that it agreed to the transfer of the disputed domain name to the Complainant. The Complainant however requested the proceeding to continue to a decision on the substance of the dispute.

The Panel considers that the Complainant, having properly initiated the present proceeding and having paid the required fees, is entitled to obtain a decision on the merits on all three elements of the Policy, and proceeds to issue such a decision.

Having dealt with the above issue, 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

Pursuant to the Policy, paragraph 4(a), a complainant must prove each of the following to justify the transfer of a domain name:

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

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

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

Identical or confusingly similar

The Complainant has provided evidence and has thus established its rights in the ITA and ITA AIRWAYS trademark.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the general Top-Level Domain ("gTLD") section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). The Panel sees no reason not to follow the same approach here, so it will disregard the ".com" gTLD section of the disputed domain name.

The relevant part of the disputed domain name is therefore the sequence "itairwaysvirtual", which consists of the elements "itairways" and "virtual". The element "itairways" incorporates the ITA trademark and appears as a variation of the ITA AIRWAYS trademark, while "virtual" is a dictionary term, which has a low effect on the overall impression made by the disputed domain name, in which the ITA and ITA AIRWAYS trademarks are easily recognisable.

As discussed in section 1.8 of the WIPO Overview 3.1, in cases where the relevant trademark is recognisable within the disputed domain name, the addition of dictionary terms would not prevent a finding of confusing similarity under the first element.

As also discussed in section 1.9 of the WIPO Overview 3.1, a domain name which consists of a variation of a trademark (typically a common, obvious, or intentional misspelling, referred to as typosquatting) is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.

Taking the above into account, the Panel finds that the disputed domain name is confusingly similar to the ITA and ITA AIRWAYS trademarks in which the Complainant has rights.

Rights and legitimate interests

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognised 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name, because it was not authorised to use the ITA and ITA AIRWAYS trademarks. The Complainant points out that the disputed domain name resolves to a website that reproduces images of ITA AIRWAYS-branded airplanes and promotes a flight simulator, and that the Respondent is thus taking advantage of the reputation of the ITA and ITA AIRWAYS trademarks. The Complainant has thus established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not submitted a Response and has not explained the reasons why it has registered the disputed domain name and why its use for the promotion of a third-party flight simulator should be regarded as legitimate. The Respondent has not disputed any of the Complainant's allegations or evidence.

In the Panel's view, the circumstances of this case do not support a finding that the Respondent has rights and legitimate interests in the disputed domain name. It is confusingly similar to the Complainant's ITA and ITA AIRWAYS trademarks, which creates an appearance that the disputed domain name is related to the Complainant. The disputed domain name was registered shortly after the Complainant acquired the business of the former Alitalia airline and began its commercial operations. The Respondent's website promotes a flight simulator and the possibility for Internet users to gain virtual money by using this simulator. This cannot be regarded as a non-commercial activity.

In the absence of any arguments or evidence to the contrary, this leads the Panel to the conclusion that it is more likely than not that the Respondent, being aware of the Complainant and its nascent ITA and ITA AIRWAYS trademarks, has registered the disputed domain name targeting these trademarks in an attempt to exploit them for commercial gain by attracting Internet users who may believe that the disputed domain name and the associated website are somehow related to the Complainant.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

Bad faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent.

As noted in section 3.8.2 of the WIPO Overview 3.1, where the facts of the case establish that the respondent's intent in registering the domain name was to unfairly capitalise on the complainant's nascent (typically as yet unregistered) trademark rights, panels have been prepared to find that the respondent has acted in bad faith.

The disputed domain name is confusingly similar to the Complainant's ITA and ITA AIRWAYS trademarks, and at the time of filing of the Complaint resolved to a website that displayed these trademarks alongside photos of the Complainant's airplanes and a copyright notice that claimed the copyright in the content of the website, without including any disclaimer for the absence of an affiliation to the Complainant, and promoted a flight simulator whose users may gain virtual money. This shows that, when registering the disputed domain name, the Respondent was well aware of the Complainant and of its trademarks, although the Complainant had only recently started its commercial operations and the ITA AIRWAYS trademark was still only an application, and that the registration of the disputed domain name was made targeting the Complainant as part of a plan for commercial activities.

This supports a conclusion that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the affiliation or endorsement of the Respondent's website and of the flight simulator services offered on it.

The disputed domain name was deactivated after the submission of the Complaint. As noted in section 3.3 of the WIPO Overview 3.1, from the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not by itself prevent a finding of bad faith under the doctrine of passive holding. To the contrary, in looking at the totality of circumstances in each case, panelists have found that the registration and non-use of a domain name can still constitute bad faith for purposes of the Policy.

In view of the prior use of the disputed domain name discussed above, the Panel considers that the deactivation of the disputed domain name following the submission of the Complaint does not preclude a finding of bad faith under the Policy.

Therefore, the Panel that the disputed domain name has been registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ITAIRWAYSVIRTUAL.COM**: Transferred

PANELLISTS

Name	**Assen Alexiev**

DATE OF PANEL DECISION 2026-06-16

Publish the Decision