

Decision for dispute CAC-UDRP-108815

Case number	CAC-UDRP-108815
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Time of filing	2026-07-03 13:49:05
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Domain names	russallstovar.site
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Case administrator

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

Organization	Chocoladefabriken Lindt & Sprüngli AG
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Complainant representative

Organization	SILKA AB
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Respondent

Name	Retha Wassermann
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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 relies on registered trade mark rights in the mark RUSSELL STOVER, including:

- United States trade mark No. 739454, RUSSELL STOVER, registered on 16 October 1962;
- European Union trade mark (EUTM) No. 004342077, RUSSELL STOVER, registered on 28 April 2006;
- International trade mark No. 1243266, RUSSELL STOVER, registered on 28 January 2015; and
- United States trade mark No. 5741842, RUSSELL STOVER (device), registered on 30 April 2019.

The Complainant also relies on longstanding use of the RUSSELL STOVER name in trade in connection with chocolate and confectionery products. The Russell Stover business traces its roots to 1923. The Complainant also owns and uses the domain name <russellstover.com>, registered on 21 December 1996 and used for its official website.

The Complainant further relies on previous UDRP recognition of the reputation of the RUSSELL STOVER mark, including CAC Case No. 107862 and No. 106883.

FACTUAL BACKGROUND

The Complainant is a Swiss company with a long-standing business in chocolate and confectionery.

The Russell Stover business traces its roots to 1923 and was acquired by the Complainant in 2014.

Russell Stover manufactures confectionery products in the United States and sells them through branded stores and other retail channels.

The disputed domain name <russallstovar.site> was registered on 21 May 2026.

According to the Complaint, before a takedown the disputed domain name resolved to a commercial website purporting to sell RUSSELL STOVER-branded chocolates at very substantial discounts.

The Respondent is Retha Wassermann of Tucson, Arizona, United States.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name 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 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 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

Under paragraph 4(a) of the Policy, the Complainant must establish each of the following: (i) that the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) that the disputed domain name has been registered and is being used in bad faith.

The Policy does not provide for an automatic or default decision. Even in the absence of a Response, the Panel must be satisfied on the evidence that each element of paragraph 4(a) has been proved.

1. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has rights in the RUSSELL STOVER mark by virtue of its registered trade marks and longstanding use of that name in trade. The record also supports the Complainant's contention that the mark is well established in relation to chocolate and confectionery products.

The disputed domain name reproduces the RUSSELL STOVER mark almost in its entirety. It substitutes "a" for "e" twice, producing "russallstovar". The mark nevertheless remains immediately recognizable. This is a straightforward example of typosquatting. Section 1.9 of the WIPO Overview 3.1 records the settled view that a domain name consisting of a common, obvious or intentional

misspelling of a trade mark is confusingly similar for purposes of the first element.

The generic Top-Level Domain “.site” is ordinarily disregarded for purposes of the first element. See section 1.11 of the WIPO Overview 3.1.

The first element of paragraph 4(a) of the Policy is therefore satisfied.

2. Rights or Legitimate Interests

It is well established that a complainant is required to make out a prima facie case that a respondent lacks rights or legitimate interests. Once that is done, the burden of proof shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests. The ultimate burden of proof remains on the complainant. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. D2003-0455, and section 2.1 of the WIPO Overview 3.1.

Past panels have held a Respondent is not commonly known by a domain name if the WHOIS information was not similar to the domain name. See the *Forum Case - FA699652 - Braun Corp. v. Loney* and *Forum Case - FA139720 - Tercent Inc. v. Lee Yi*. That record does not show that the Respondent, Retha Wassermann, has been commonly known by the disputed domain name or by “Russall Stovar”. There is no evidence that the Respondent has trade mark rights corresponding to RUSSELL STOVER or “Russall Stovar”, or any licence, permission or other authorisation from the Complainant to use the RUSSELL STOVER mark. The Complainant has made out that prima facie case.

The real question is whether the Respondent might nevertheless claim a legitimate interest as a reseller or distributor. UDRP panels recognise that a reseller, distributor or service provider may, in some circumstances, have a right or legitimate interest in using a domain name containing a complainant’s mark to sell the complainant’s genuine goods. That possibility is commonly assessed by reference to the cumulative requirements outlined in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903, and section 2.8.1 of the WIPO Overview 3.1.

Under the Oki Data test, the following cumulative requirements are generally applied in the specific circumstances 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 trade mark holder; and (iv) the respondent must not try to corner the market in domain names reflecting the trade mark.

This is not, however, a genuine reseller or distributor case. The website did not present an independent business transparently reselling the Complainant’s goods. It held itself out as Russell Stover itself. The home page displayed the Complainant’s script logo as the site identity, used brand-specific product imagery and retail categories, and offered purported RUSSELL STOVER products at discounts of around 90 percent. More significantly, the site’s own “About” and “Contact Us” pages identified the business as “Russall Stovar”, the same typo embodied in the disputed domain name, rather than naming an independent reseller. There is no prominent and accurate disclosure that the operator is unaffiliated with the Complainant.

The Panel has compared the screenshots in evidence of the Respondent’s website with those of the Complainant’s official site. The overall presentation is apt to create the impression that the Respondent’s site is a Russell Stover retail operation, not a separate reseller referring to the mark merely to identify genuine goods. The disputed website also included account-registration and checkout functions and requested names, addresses, telephone numbers, e-mail addresses and payment-card details. These features reinforce the conclusion that users were being invited to transact with a site presented as the brand owner’s own store.

The record does not enable the Panel to determine definitively whether the goods offered were genuine, counterfeit, or available at all. No such finding is necessary. Even assuming in the Respondent’s favour that genuine RUSSELL STOVER goods were being offered, the Respondent would fail the Oki Data test because the site did not accurately and prominently disclose the registrant’s relationship with the trade mark holder. Instead, the domain name and website presentation conveyed identity with, or authorisation by, the Complainant.

This distinction is important. Oki Data provides a framework for fair, referential use by an actual reseller or distributor; it does not provide a safe harbour for impersonation. Section 2.8.2 of the WIPO Overview 3.1 explains that the domain name itself forms part of the assessment of whether use of the mark is fair and merely referential, while section 2.13.1 records that copycat sites, passing off, phishing or other fraudulent activity can never confer rights or legitimate interests. Here the deliberate misspelling of the Complainant’s mark, coupled with a website that adopts the brand as its own identity and omits any disclosure of independence, points away from nominative fair use and toward impersonation.

The Respondent has not come forward to rebut the Complainant’s prima facie case or to show that it is an authorised distributor, a genuine reseller operating transparently, or otherwise entitled to use the disputed domain name. In the circumstances, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy is satisfied.

3. Registered and Used in Bad Faith

The Panel also finds that the disputed domain name was registered and is being used in bad faith.

The RUSSELL STOVER mark substantially predates the registration of the disputed domain name. The disputed domain name is a deliberate two-letter misspelling of that mark, and the website to which it resolved prominently reproduced the RUSSELL STOVER logo and purported to sell RUSSELL STOVER products. These facts make it implausible that the Respondent registered the disputed

domain name by coincidence or without knowledge of the Complainant and its mark. The Respondent plainly had the Complainant in mind. See also section 3.2.1 of the WIPO Overview 3.1, which identifies the nature of a domain name, including a typo of a widely known mark, and the content of the associated website as relevant indicators of targeting and bad-faith registration.

The use made of the disputed domain name confirms bad faith. The Respondent used the typo domain to operate a commercial online shop that adopted the Complainant’s RUSSELL STOVER branding as its own, purported to sell the Complainant’s products at steep discounts, and did not prominently disclose any lack of relationship with the Complainant. The site went beyond merely advertising branded goods: its “About” and “Contact Us” pages identified the business itself as “Russall Stovar”, and its checkout process sought personal and payment-card information. The evident purpose and effect were to cause Internet users to believe that they had reached a Russell Stover-operated or authorised retail site.

Paragraph 4(b)(iv) of the Policy expressly identifies bad faith where a respondent, by using the domain name, intentionally attempts to attract Internet users to its website or other online location for commercial gain by creating a likelihood of confusion with the complainant’s mark as to source, sponsorship, affiliation or endorsement. That is precisely the situation here. The disputed domain name captures users through an intentional misspelling of RUSSELL STOVER, and the website then reinforces the false association through the Complainant’s logo, products and brand presentation.

The Panel has considered whether the case could properly be characterised as a reseller or distributor case. It cannot. Even if the products were genuine, a respondent does not obtain a legitimate reseller interest by masquerading as the trade mark owner. The absence of an accurate and prominent disclosure of independence is fatal under Oki Data, and the affirmative presentation of the site as “Russall Stovar” makes the case stronger than a mere failure to include a disclaimer. The conduct is consistent with impersonation and passing off, not transparent resale. Sections 2.8.1 and 2.13.1 of the WIPO Overview 3.1 support that conclusion.

The very substantial discounts and the request for personal and financial information add to the concern. The Panel need not determine whether actual phishing or counterfeiting occurred. The evidence is sufficient to establish that the Respondent deliberately created a misleading copycat retail site and sought commercial transactions under the false appearance of association with the Complainant. Section 3.1 of the WIPO Overview 3.1 describes bad faith broadly as taking unfair advantage of or otherwise abusing a complainant’s mark, and paragraph 4(b)(iv) applies directly on these facts.

The disputed domain name is now inactive following the Complainant’s takedown request. That does not cure the prior bad-faith use or prevent a finding of continuing bad faith. Section 3.3 of the WIPO Overview 3.1 confirms that non-use does not by itself prevent a finding of bad faith where the totality of circumstances supports it. Here those circumstances include the distinctiveness and reputation of the RUSSELL STOVER mark, the intentional typosquatting, the Respondent’s prior impersonating use, the absence of any plausible good-faith explanation, and the Respondent’s failure to participate in the proceeding.

Taking all of these circumstances together - the Complainant’s longstanding rights, the intentional misspelling of its mark, the Respondent’s evident knowledge and targeting of that mark, the impersonating online-shop presentation, the absence of any accurate disclosure of independence, the commercial checkout function, and the subsequent passive holding - the Panel concludes that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) and paragraph 4(b)(iv) of the Policy.

The third element of paragraph 4(a) of the Policy is satisfied.

For the foregoing reasons, the Panel finds that the Complainant has satisfied each of the three elements required under paragraph 4(a) of the Policy.

The Panel orders that the disputed domain name <russallstovar.site> be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. russallstovar.site: Transferred

PANELLISTS

Name	Victoria McEvedy
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DATE OF PANEL DECISION 2026-08-10

Publish the Decision