# Decision for dispute CAC-UDRP-109008

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| Case number | CAC-UDRP-109008 |
| Time of filing | 2026-09-23 09:20:49 |
| Domain names | thecolibriskincare.shop |

## Case administrator

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| Name | Olga Slanařová (Case admin) |

## Complainant

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| Organization | domany |

## Complainant representative

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| Organization | RDP Roehl Dehm & Partner Rechtsanwälte mbB |

## Respondent

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| Name | Eric Hall |

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 COLIBRI SKINCARE trademark, and other trademarks that contain the term "colibri", such as COLIBRI COSMETICS. In particular, the Complainant owns the European Union trademark No. 018271850 for COLIBRI SKINCARE, registered on October 27, 2020.

The Complainant also owns domain names that include its COLIBRI COSMETICS trademark, such as the domain name <colibriskincare.de>, registered on July 29, 2020.

FACTUAL BACKGROUND

The Complainant is a German company which develops and sells skincare products formulated to address different skin needs on the basis of scientific research. Distribution of the Complainant's products takes place primarily through the Complainant's own online shop at the domain name <colibriskincare.de>, through which customers can place orders for direct delivery to their homes. The products are additionally available through selected retail partners.

The disputed domain name was registered on June 4, 2026 and at the time the Complaint was filed it resolved to an online shop under the name "Colibri Skincare" that purported to offer for sale the Complainant's products and prominently displayed the Complainant's trademarks, product images and in general imitated the layout of the Complainant's official website. At the time of

this Decision, the disputed domain name resolves to an inactive webpage.

## 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.

Notably, the Complainant contends that the disputed domain name incorporates its COLIBRI SKINCARE trademark in its entirety and without alteration, with the only addition being the definite article "the" preceding the trademark, which has no distinguishing capacity of its own. The Complainant further argues that the omission of the space between the words "colibri" and "skincare" is dictated by the technical requirements of the domain name system, while the addition of the gTLD ".shop" is irrelevant for the purposes of comparison. According to the Complainant, the disputed domain name is phonetically and visually highly similar and conceptually identical to its COLIBRI SKINCARE trademark.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant contends that it has never granted the Respondent any license, authorization, consent or permission to use its trademarks in the disputed domain name. The Complainant argues that the Respondent is using the disputed domain name for a fake online shop reproducing the Complainant's own website, including its visual appearance, page structure, color scheme, name, trademarks and product images, thereby impersonating the Complainant and misleading customers. The Complainant further contends that such use cannot constitute a bona fide offering of goods or services, particularly since the website does not disclose any relationship between the Respondent and the Complainant and instead holds itself out as the Complainant's own online shop. The Complainant also points out that the customer login page is identical to that of its own website, meaning that users have no means of recognizing that their account credentials are not being transmitted to the Complainant, while the checkout process requires customers to enter their credit card details, with no alternative payment method being offered. Furthermore, the Complainant submits that the Respondent is not commonly known by the disputed domain name, as the publicly available registration data identify a proxy service as the registrant and the website contains no imprint, corporate identification or other indication of an operator bearing a corresponding name. Finally, the Complainant argues that the Respondent is not making any legitimate non-commercial or fair use of the disputed domain name, as the website is commercial in nature, offers goods for sale and creates a risk of implied affiliation with the Complainant.

With reference to the circumstances evidencing bad faith, the Complainant contends that the Respondent registered the disputed domain name in bad faith, with full knowledge of the Complainant and its trademarks. In this regard, the Complainant notes that its trademarks predate the registration of the disputed domain name on June 4, 2026, and that it has been distributing its products through its own online shop at "www.colibriskincare.de" since at least 2021. The Complainant argues that the Respondent's knowledge of its trademarks and business activities is evident from the reproduction of its online shop, including its visual appearance, products, packaging, logos, product names and photographic materials, as well as the choice of a domain name consisting of the COLIBRI SKINCARE trademark preceded only by the article "the", clearly intended to create the closest possible resemblance to the Complainant's own domain name. With regard to bad-faith use, the Complainant submits that the Respondent intentionally attempted to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of the website and the goods offered thereon, within the meaning of paragraph 4(b)(iv) of the Policy. The Complainant further argues that the Respondent is using the website to collect customers' account credentials and credit card details under the guise of the Complainant's online shop, exposing the Complainant to reputational and other harm. Finally, the Complainant points out that the Respondent used a privacy service to conceal its identity and that, despite the Complainant's reports to the Registrar on August 24 and August 31, 2026, drawing attention in particular to the collection of customer account and credit card data, the Registrar took no action and the website remained operational.

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

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy stipulates that the complainant must prove each of the following:

- that the disputed domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- that the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- that the disputed domain name has been registered and is being used in bad faith.

**I. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name, as stipulated in section 1.7 of WIPO Overview of WIPO Panel Views on Select UDRP Questions ("WIPO Overview 3.1").

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy (WIPO Overview 3.1, section 1.2.1).

The entirety of the Complainant’s COLIBRI SKINCARE trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant’s trademark for the purposes of the Policy (WIPO Overview 3.1, section 1.7).

Although the addition of other terms, in this case “the”, may bear on the assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s trademark for the purposes of the Policy (WIPO Overview 3.1, section 1.8).

In addition, it is well established that “.shop”, as a generic top-level domain ("gTLD"), is disregarded in the assessment of confusing similarity between the disputed domain name and the trademark (WIPO Overview 3.1, section 1.11.1).

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

**II. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in the disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Having reviewed the available record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that there appears to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s COLIBRI SKINCARE trademark or any variation thereof. There appears to be no element from which the Panel could infer the Respondent’s rights or legitimate interests in the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

Furthermore, based on the undisputed evidence provided by the Complainant, the disputed domain name resolved to an online shop

under the name "Colibri Skincare" that purported to offer for sale the Complainant's products and prominently displayed the Complainant's trademarks, product images and in general imitated the layout of the Complainant's official website. The Panel holds that the Respondent's use of the disputed domain name does not meet the "Oki Data Test" requirements (as established in Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No. D2001-0903), because the website did not disclose the lack of relationship between the Respondent and the Complainant (WIPO Overview 3.1, section 2.8). Moreover, based on the content of the website to which the disputed domain name resolved, it appears more likely than not that the Respondent intended to mislead Internet users into believing that the website is operated by the Complainant. In that sense, panels have held that the use of a domain name for illegitimate activity (such as passing off) can never confer rights or legitimate interests on a respondent (WIPO Overview 3.1, section 2.13.1). In any event, such use of the disputed domain name cannot be considered a bona fide offering of goods or services.

The Panel also finds that the composition of the disputed domain name, which contains the Complainant's COLIBRI SKINCARE trademark in its entirety in combination with the definite article "the" carries a high risk of implied affiliation (WIPO Overview 3.1, section 2.5.1).

Having in mind the above, the Panel finds the second element of the Policy has been established.

**III. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a non-exhaustive list of circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith (see WIPO Overview 3.1, section 3.2.1).

In the present case, the Panel notes that the Respondent must have been well aware of the Complainant and its COLIBRI SKINCARE trademark at the time of the registration of the disputed domain name. The content of the website to which the disputed domain name resolved, leaves no room for a doubt on the Respondent's knowledge of the Complainant and its COLIBRI SKINCARE trademark and evidences that the Respondent actually had the Complainant in mind when registering the disputed domain name. It should also be borne in mind that the registration and use of the COLIBRI SKINCARE trademark predates the registration of the disputed domain name by several years.

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

As previously indicated, the disputed domain name resolved to an online shop under the name "Colibri Skincare" that purported to offer for sale the Complainant's products and prominently displayed the Complainant's trademarks, product images and in general imitated the layout of the Complainant's official website. The Panel considers such use of the disputed domain name as evidence of bad faith indicating that the Respondent has used a domain name nearly identical to the Complainant's mark primarily with the intention of attempting to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of such website, or of a product or service on such website. Additionally, panels have held that the use of a domain name for illegitimate activity (such as passing-off) constitutes bad faith (WIPO Overview 3.1, section 3.4).

While the disputed domain name no longer resolves to an active website, such inactivity does not prevent a finding of bad faith given the totality of the circumstances of the case at hand (WIPO Overview 3.1, section 3.3).

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Therefore, the Panel finds that the Complainant has established the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **thecolibriskincare.shop**: Transferred

## PANELLISTS

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| Name | **Stefan Bojovic** |

DATE OF PANEL DECISION 2026-11-03