

ADMINISTRATIVE PANEL DECISION

Stephen Moffitt, Keith Moffitt, and CS Calzature Limited v. Client Care, Web Commerce Communications Limited, Petra REINHARDT, Bjork Nyberg, Johanna BUMGARNER, Steffen SANKT, Olga Khalid, Holm Maria, Anna Arvidsson, Bjork Elliot, Veronica Valentina, Hermansson Hellstrom, Anita Hellstrom, Ebba Melikssa, Obeirg Roni, Gabriele EGGERS, Katharina JAEGER, Heike ROTH, Kristin WIRTZ, Ines GERSTEN, Thomas BOHM, Ulrich WOLF, Tanja SCHREIBER, Florian DRESCHER, Ulrike OSTERHAGEN, Katrin SOMMER, and Marie VOGEL
Case No. D2023-2407

1. The Parties

The Complainants are Stephen Moffitt, Keith Moffitt, and CS Calzature Limited, Ireland, represented by F.R. Kelly & Co., Ireland.

The Respondents are Client Care, Web Commerce Communications Limited, Malaysia; Petra REINHARDT, Germany; Bjork Nyberg, Germany; Johanna BUMGARNER, Germany; Steffen SANKT, Germany; Olga Khalid, France; Holm Maria, Germany; Anna Arvidsson, France; Bjork Elliot, France; Veronica Valentina, France; Hermansson Hellstrom, France; Anita Hellstrom, Germany; Ebba Melikssa, Germany; Obeirg Roni, France; Gabriele EGGERS, Germany; Katharina JAEGER, Germany; Heike ROTH, Germany; Kristin WIRTZ, Germany; Ines GERSTEN, Germany; Thomas BOHM, Germany; Ulrich WOLF, Germany; Tanja SCHREIBER, Germany; Florian DRESCHER, Germany; Ulrike OSTERHAGEN, Germany; Katrin SOMMER, Germany; and, Marie VOGEL, Germany.

2. The Domain Names and Registrars

The disputed domain names <carlscarpaireland.com>, <carlscarpaaustralia.com>, <carlscarpasouthafrica.com>, <carlscarpauae.com>, <carlscarpafrance.com>, <carlscarpasverige.com>, <carlscarpanederland.com>, and <carlscarpasuomi.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the "First Registrar").

The disputed domain names <carlscarpauk.com>, <carlscarpaslovenia.com>, <carlscarpausa.com>, <carlscarpacanada.com>, <carlscarpaphilippines.com>, <carlscarpasingapore.com>, <carlscarpagreece.com>, <carlscarp norge.com>, <carlscarpaslovensko.com>, <carlscarpaturkiye.com>, <carlscarpadanmark.com>, <carlscarpaargentina.com>, <carlscarpachile.com>, <carlscarpahrvatska.com>, and <carlscarpacolombia.com> are registered with NETIM SARL (the "Second Registrar").

The disputed domain names <carlscarpromania.com>, <carlscarpamexico.com>, <carlscarpaindia.com>, <carlscarpaportugal.com>, <carlscarpahungary.com>, <carlscarpadeutschland.com>, <carlscarpaespana.com>, <carlscarpaitalia.com>, <carlscarpapolska.com>, and <carlscarpaschweiz.com> are registered with Hosting Concepts B.V. d/b/a Registrar.eu (the “Third Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 2, 2023. On June 5, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On June 6, 2023, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainants on June 6, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainants filed the first amended Complaint on June 20, 2023 with the request to add 28 more disputed domain names in this proceeding.

On June 22, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the additional disputed domain names. On June 22, 2023, the Third Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted For Privacy) and contact information in the Complaint. On June 25, 2023, the First Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted For Privacy) and contact information in the Complaint. On June 27, 2023, the Second Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainants on July 6, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainants filed the second and third amended Complaints on July 11 and July 13, 2023, respectively.

The Center verified that the Complaint together with the amended Complaints satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondents of the Complaint, and the proceedings commenced on July 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 6, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on August 8, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on August 18, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

According to information in the Complaint, the Complainant CS Calzature Limited (the “First Complainant”) is a leading footwear company and has been in the industry for almost 50 years, using the trading name “Carl Scarpa”. The First Complainant’s first international shop opened in Sligo, Ireland in 1974. It has now 24 branches in the United Kingdom and Ireland, and it ships globally from its official website located at “www.carlscarpa.com”.

The Complainants Stephen Moffitt and Keith Moffitt (the “Second Complainant”) are directors of the First Complainant, and the owners of the intellectual property rights associated with CARL SCARPA.

The Second Complainant has registered several trademarks consisting of or including CARL SCARPA, such as the European Union Trademark No. 000544932 for CARL SCARPA. (figurative), registered as of April 9, 1999.

The disputed domain names were registered as follows:

The disputed domain names <carlscarpauk.com>, <carlscarpausa.com>, <carlscarpacanada.com>, <carlscarpaphilippines.com>, and <carlscarpasingapore.com> were registered on October 26, 2022.

The disputed domain names <carlscarpaireland.com>, <carlscarpaaustralia.com>, <carlscarpasouthafrica.com>, and <carlscarpauae.com> were registered on October 27, 2022.

The disputed domain names <carlscarparomania.com>, <carlscarpamexico.com>, <carlscarpaindia.com>, <carlscarpaportugal.com>, <carlscarpahungary.com>, <carlscarpagreece.com>, <carlscarpanorge.com>, <carlscarpaslovensko.com>, <carlscarpaturkiye.com>, and <carlscarpadanmark.com>, were registered on October 28, 2022.

The disputed domain names <carlscarpafrance.com>, <carlscarpasverige.com>, <carlscarpanederland.com>, and <carlscarpasuomi.com> were registered on October 29, 2022.

The disputed domain names <carlscarpadeutschland.com>, <carlscarpaespana.com>, <carlscarpaitalia.com>, <carlscarpapolska.com>, and <carlscarpaschweiz.com> were registered on October 31, 2022.

The disputed domain names <carlscarpaslovenia.com>, <carlscarpaargentina.com>, <carlscarpachile.com>, <carlscarpahrivatska.com>, and <carlscarpacolombia.com> were registered on November 1, 2022.

At the date of the Decision, all disputed domain names, except for <carlscarpafrance.com>, <carlscarpanederland.com>, and <carlscarpapolska.com>, resolve to websites which appear to offer CARL SCARPA products for sale at discounted prices. The websites also display product images, and descriptions that also appear on the Complainant’s website. The disputed domain names <carlscarpafrance.com>, <carlscarpanederland.com>, and <carlscarpapolska.com> resolve to warning pages stating either “Deceptive site ahead” or “Your connection is not private”.

5. Parties’ Contentions

A. Complainants

The Complainants argue that the Respondents have incorporated the Complainants’ trademark in the disputed domain names. The only difference is the incorporation of various geographical names in the disputed domain names.

As regards the second element, the Complainants argue that they have not authorized, licensed or permitted the Respondents to register or use the disputed domain names or to use the Complainants’ trademarks. The Respondents are not commonly known by the disputed domain names. Also, the Respondents cannot reasonably demonstrate a legitimate noncommercial or fair use of the disputed domain names. The Complainants argue that the websites at the disputed domain names resolve to commercial websites that include the Complainants’ logo, trademarks, as well as photos and product listings of the Complainants. The goods are offered disproportionately below market value and the usual amounts charged by the Complainants. Also, the layout of the websites at the disputed domain names is similar to that of the

Complainants' official website. The Respondents seek to target the Complainants' trademarks and reputation through the disputed domain names.

With respect to the third element, the Complainants argue that given the extent of use and the reputation and the distinctive nature of the Complainants' trademark, it is implausible that the Respondents registered the disputed domain names without prior knowledge of the Complainants and the Complainants' trademarks. Further, the Complainants argue that the websites at the disputed domain names mislead consumers into believing that the product offering of the Respondents is that of the Complainants or at least associated with the Complainants' business, which is not the case.

B. Respondents

The Respondents did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Preliminary issue

No communication has been received from the Respondents in this case. However, given that the Complaint was sent to the relevant addresses disclosed by the Registrars, the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainants as per paragraph 15(a) of the Rules.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

6.2. Multiple Complainants

The Complaint was filed by two Complainants, who allege that they have a common legal interest in the disputed domain names.

According to section 4.11.1 of the [WIPO Overview 3.0](#), "In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation". It is well accepted that a single complaint may be brought under the Policy by multiple complainants where the multiple complainants have a common grievance against the respondent and one example of a common grievance entitling consolidation of complainants is where the complainants share an interest in trademarks allegedly affected by the respondent's registration of the disputed domain name.

In this case, the Complainants allege shared trademark rights and a corporate connection. The Respondents have not objected to the Complainants' consolidation request. Under the circumstances of the case, the Panel accepts that consolidation is procedurally efficient, fair and equitable to all Parties, and will accept both Complainants as party to the proceedings.

6.3. Consolidation of Domain Names and of Respondents

Consolidation of multiple domain name disputes under paragraph 3(c) or 10(e) of the Rules may be appropriate where the particular circumstances of a case indicate that common control is being exercised

over the disputed domain names or the websites to which the disputed domain names resolve and the panel, having regard to all of the relevant circumstances, determines that consolidation would be procedurally efficient and fair and equitable to all parties. According to WIPO 3.0, section 4.11.2, “Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario”.

In the present case, the Panel finds that the consolidation of the domain name disputes is justified as, *inter alia*: (i) the disputed domain names were registered in a short period of time, between October 26, 2022 and November 1, 2022, (ii) the disputed domain names are similar in construction, as they all incorporate the Complainants’ trademark CARL SCARPA with the addition of geographical terms in each disputed domain name, (iii) most of the websites to which the disputed domain names resolve are identical or highly similar and display the Complainant’s CARL SCARPA trademark, (iv) all disputed domain names are hosted by Orion Networks Limited, and have similar IP address, (v) the contact data for most of the Respondents of the disputed domain names includes a similarly structured email address (*i.e.* a series of letters and/or a series of numbers and then “@yeah.net”), and (vi) the contact data for most of the Respondents appears to be false or incomplete in view of the courier’s inability to deliver the Center’s written communications to the contact details disclosed by the Registrars for the registrants.

The Panel finds that the consolidation is fair to the Parties, and the Respondents have been given an opportunity to object to consolidation through the submission of pleadings to the Complaint, but have chosen not to try to rebut the consolidation (see [WIPO Overview 3.0](#), section 4.11.2). Based on the Complaint, the Panel finds that it is more likely than not that the disputed domain names are in common control of one entity; hence, the Panel grants the consolidation for the disputed domain names (and will refer to the Respondents as the “Respondent”).

6.4. Substantive issues

Paragraph 4(a) of the Policy directs that the Complainants must prove each of the following elements:

- (i) that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) that the disputed domain names were registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainants have proved rights over the CARL SCARPA trademark.

The disputed domain names incorporate the trademark CARL SCARPA in its entirety. Each disputed domain name also includes one added term, which does not in the view of the Panel prevent the Complainants’ trademark from being recognizable within the disputed domain names. Many UDRP panels have found that a disputed domain name is confusingly similar where the relevant trademark is recognizable within the disputed domain name. See section 1.7 of the [WIPO Overview 3.0](#). It is well accepted by UDRP panels that a gTLD, such as “.com”, is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain names are confusingly similar to the Complainants’ trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainants have the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain names. As established by previous UDRP panels, it is sufficient for the Complainants to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain names in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainants have established a *prima facie* case that they hold rights over the trademark CARL SCARPA and claim that the Respondent has no legitimate reason to acquire and use the disputed domain names.

There is no evidence that the Respondent is using the disputed domain names in connection with a *bona fide* offering of goods or services. Rather, according to the unrebutted evidence of the Complainants, most of the websites at the disputed domain names are used to allegedly offer for sale CARL SCARPA branded goods at a significant discounted price, reproducing the Complainants' trademark and logo, as well as product images from the Complainants' website. Under these circumstances, it is reasonable to infer that the products offered on the website at the disputed domain names are counterfeits of the Complainants' products. Even if the products were genuine, the lack of any disclaimer on the website at the disputed domain names as to their relationship with the trademark owner or the lack thereof, would falsely suggest to Internet users that the websites to which the disputed domain names resolve is owned by the Complainants or at least affiliated to the Complainants (as per the principles outlined in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)).

With respect to the disputed domain names <carlscarpafrance.com>, <carlscarpanederland.com>, and <carlscarpapolska.com>, which resolve to warning pages stating either "Deceptive site ahead" or "Your connection is not private", there is no evidence that the Respondent is using those in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of those disputed domain names within the meaning of paragraphs 4(c)(i) and (iii) of the Policy.

Also, there is no evidence that the Respondent is commonly known by the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy.

Furthermore, the nature of the disputed domain names, that include the Complainants' trademark in its entirety, carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainants. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel considers that the Complainants have made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent failed to rebut that *prima facie* case because the Respondent did not respond to the Complainants' contentions.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainants must establish that the disputed domain names have been registered and are being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain names' registration and use in bad faith.

According to the unrebutted assertions of the Complainants, its CARL SCARPA trademark was widely used in commerce well before the registration of the disputed domain names. The disputed domain names are confusingly similar with the Complainants' trademark. Under these circumstances, it is most likely that the Respondent was aware of the Complainants' trademark at the registration date of the disputed domain

names. The Respondent provided no explanations for why it registered the disputed domain names. Moreover, the majority of the disputed domain names resolve to websites reproducing the Complainants' trademark and purportedly offering for sale the Complainants' products but at a much lower price. Under these circumstances it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainants' trademarks, and to target those trademarks.

The majority of the inherently misleading disputed domain names resolve to websites which copy the look and feel of the Complainants' websites, display the Complainants trademark, logo, and product images, ostensibly offering the Complainants' products at a much lower price. As such, the disputed domain names suggest affiliation with the Complainants in order to attract consumers and offer products that appear to be counterfeit.

The Respondent's bad faith registration and use of the disputed domain names can also be inferred from the warnings on the websites at the disputed domain names <carlscarpafrance.com>, <carlscarpanederland.com>, and <carlscarpapolska.com>.

Furthermore, the Panel also find applicable paragraph 4(b)(ii) of the Policy, as the Respondent has registered within a short period of time 33 domain names that incorporate the Complainants' trademark, therefore engaging in a pattern of conduct of preventing the Complainants from reflecting their CARL SCARPA trademark in corresponding domain names. See section 3.1.2 of the [WIPO Overview 3.0](#), "UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration. This may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same brand owner".

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainants' contentions or provide any evidence of actual or contemplated good-faith use, and indeed none would seem plausible. In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain names. The Respondent failed to bring evidence as to the contrary. Consequently, the Panel concludes that the condition of paragraph 4(a)(iii) of the Policy is fulfilled.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names, <carlscarpaargentina.com>, <carlscarpaaustralia.com>, <carlscarpacanada.com>, <carlscarpachile.com>, <carlscarpacolombia.com>, <carlscarpadanmark.com>, <carlscarpadeutschland.com>, <carlscarpaespana.com>, <carlscarpafrance.com>, <carlscarpagreece.com>, <carlscarpahratska.com>, <carlscarpahungary.com>, <carlscarpaindia.com>, <carlscarpaireland.com>, <carlscarpaitalia.com>, <carlscarpamexico.com>, <carlscarpanederland.com>, <carlscarpanorge.com>, <carlscarpaphilippines.com>, <carlscarpapolska.com>, <carlscarpaportugal.com>, <carlscarparomania.com>, <carlscarpaschweiz.com>, <carlscarpasingapore.com>, <carlscarpaslovenia.com>, <carlscarpaslovensko.com>, <carlscarpasouthafrica.com>, <carlscarpasuomi.com>, <carlscarpasverige.com>, <carlscarpaturkiye.com>, <carlscarpauae.com>, <carlscarpauk.com>, and <carlscarpausa.com> be transferred to the Complainants.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: September 1, 2023