

## **ADMINISTRATIVE PANEL DECISION**

Corneliani S.p.A. v. long li  
Case No. D2024-1774

### **1. The Parties**

The Complainant is Corneliani S.p.A., Italy, represented by Società Italiana Brevetti S.p.A., Italy.

The Respondent is long li, Hong Kong, China.

### **2. The Domain Name and Registrar**

The disputed domain name <corneliani.xyz> is registered with Dynadot Inc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 26, 2024. On April 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 30, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 1, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 6, 2024.

The Center verified that the Complaint together with the amended Complaint 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 Respondent of the Complaint, and the proceedings commenced on May 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 30, 2024.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on June 5, 2024. 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

The Complainant is an Italian fashion company founded in the 1930s and specializing in the selling of men fashion apparel.

The Complainant is the owner of several trademarks incorporating the name "CORNELIANI" (the "CORNELIANI trademarks") to promote its products including:

- the Italian semifigurative mark <sup>CORNELIANI</sup><sub>Chiodini</sub> No. 0001604248 registered on August 19, 2014, and renewed for products and services in classes 3, 5, 9, 14, 16, 18, 20, 24, 25, 26, 41, 42 and 44;
- the European Union wordmark CORNELIANI No. 123323 registered on March 22, 1999, and regularly renewed for products in classes 3, 9, 18 and 25;
- the European Union semifigurative mark <sup>CORNELIANI</sup> No. 18317538, registered on May 1, 2021, for products and services in classes 3, 9, 14, 18, 35, 41 and 42.

The Complainant is also the owner of the domain name <corneliani.com> registered on January 24, 1997, among other domain names incorporating the CORNELIANI trademarks.

The disputed domain name was registered on April 3, 2024, by an individual located in Hong Kong, China, and resolves to a parking page on Dan.com, a domain name marketplace, where the disputed domain name is listed as being for sale for USD 1,450.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical to a trademark in which it has rights. The Complainant submits that it is the owner of several CORNELIANI trademarks around the world and in several jurisdictions. The Complainant highlights that it is also the owner of a domain name incorporating the CORNELIANI trademarks for several decades. Furthermore, it argues that the disputed domain name is composed of the exact reproduction of the CORNELIANI trademarks and that the generic Top-Level Domain (gTLD) must not be taken into account since it is viewed as a standard registration requirement. The Complainant underlines that the disputed domain name was registered well after the registration of the CORNELIANI trademarks.

Then, the Complainant stands that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant submits that it has never authorized nor given its consent for the registration of the disputed domain name by the Respondent. The Complainant asserts the disputed domain name was registered to use its well-known CORNELIANI trademarks to attract current and potential customers of the Complainant. The latter also underlines that it, and its representatives, are the sole owner of any trademark incorporating the name "CORNELIANI" and that the Respondent does not own any trademark incorporating this name.

Finally, the Complainant asserts that the disputed domain name was registered and is used in bad faith. The Complainant highlights that the Respondent chose to identically reproduce the CORNELIANI trademarks to match the Complainant's trade name since it was a well-established business with a strong reputation. For the Complainant, it is clear that the Respondent knew of the existence of the Complainant and of its CORNELIANI trademarks and that it intended to exploit the reputation of the Complainant and its trademarks. Furthermore, the Complainant highlights that it is not related to the Respondent and that the word CORNELIANI is not a common or descriptive term. It asserts that the disputed domain name reverts to

a webpage of a marketplace famous for reselling domain names at a much higher market value. Finally, the Complainant submits that the Respondent is well-known for its abusive domain name registration.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that the Complainant shall prove the following three elements:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### **A. 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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

### **B. 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 a 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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds 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.

Indeed, it appears that the Respondent is not commonly known by the disputed domain name and that the Complainant is not affiliated with nor authorized by the Complainant to register the disputed domain name.

The Panel finds the second element of the Policy has been established.

### **C. 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.

In the present case, the Panel notes that the Respondent has registered the disputed domain name, which is identical to the CORNELIANI trademarks, several years after the registration of these trademarks. Regarding the distinctiveness and reputation of these trademarks, the Panel considers that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademarks and that it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would be legitimate.

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, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The disputed domain name in this case, redirects Internet users to a parking page on Dan.com, which is a domain name marketplace listing the disputed domain name for USD 1450. The disputed domain name also incorporates the CORNELIANI trademarks in their entirety. In this regard, the Panel finds that the Respondent is using the disputed domain name merely to sell it for a price which is presumably in excess of the out-of-pocket costs related to the disputed domain name. Paragraph 4(b)(i) of the Policy states that such use constitutes direct evidence of bad faith.

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

## **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 name <corneliani.xyz> be transferred to the Complainant.

*/Christiane Féral-Schuhl/*

**Christiane Féral-Schuhl**

Sole Panelist

Date: June 19, 2024