

ADMINISTRATIVE PANEL DECISION

Aldo Group International GmbH v. John S Parker
Case No. D2024-3725

1. The Parties

The Complainant is Aldo Group International GmbH, Switzerland, represented by Markmonitor, United States of America.

The Respondent is John S Parker, United States of America.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 12, 2024. On September 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 September 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 11, 2024.

The Center appointed Gustavo Patricio Giay as the sole panelist in this matter on October 24, 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 – operating since 1972 – is a world-leading retailer of footwear and fashion accessories.

Currently, the Complainant is established in over 100 countries with more than 3000 points of sale around the world and serving 200 million customers and visitors to its stores each year.

One of the Complainant's most important brand is CALL IT SPRING which consists of a line of shoes, boots, sandals and handbags which are made in 100% vegan way.

The Complainant and its affiliated companies are owners of the trademark CALL IT SPRING in many jurisdictions, including United States Patent and Trademark Office (USPTO) Reg. No. 4258094 registered on December 11, 2012, for classes 9,14,18, 25, 26 and 35; international registration Reg. No. 1706453, registered on November 1, 2022, for classes 9, 35, and 41; and international registration Reg. No. 1109466 registered on January 11, 2012, for classes 18, 25, and 35.

In addition, the Complainant and its affiliated companies claim to own an important domain names portfolio, including, among others, its primary websites "callitspring.com" registered since June 8, 2010 (as per its Annex 7).

Lastly, the disputed domain name was registered on June 21, 2024, and it resolves to an active website displaying the Complainant's trademark and offering CALL IT SPRING branded products such as shoes and bags at heavily discounted prices.

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.

The Complainant states that the disputed domain name is confusingly similar to its trademark CALL IT SPRING, and its official domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, nor is he related in any way to the Complainant. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark CALL IT SPRING or apply for registration of the disputed domain name.

More specifically, the Complainant alleges that the Respondent has not used and/or has no demonstrable intention to use the disputed domain name except to create a likelihood of confusion with the Complainant's trademark. In fact, the Complainant claims that the Respondent has selected the disputed domain name only to intentionally lead Internet users to believe they are accessing the Complainant's website.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was 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 CALL IT SPRING mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here the geographical terms "en ecuador", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Moreover, the ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of the [WIPO Overview 3.0](#).

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.

The Complainant has claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the trademark CALL IT SPRING nor is there any other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain name.

Likewise, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name. On the contrary, the Respondent's use of the disputed domain name appears to be merely intended to benefit from Complainant's reputation by confusing Internet users and leading them to believe that the website to which the disputed domain name relates is an official site of the Complainant, particularly noting the content of the disputed domain name. Hence, as established in section 2.5 of [WIPO Overview 3.0](#): "Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry."

Finally, the Respondent is using the disputed domain name to offer CALL IT SPRING branded products such as shoes and bags at heavily discounted prices. Panels have held that the use of a domain name for illegal activity, as applicable to this case: likely sale of counterfeit goods and impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 such connection, the Complainant has submitted evidence to support that the trademark CALL IT SPRING is widely known and was registered and used before the Respondent registered the disputed domain name. The Respondent when registering the disputed domain name has targeted the Complainant's trademark CALL IT SPRING to commercialize non-licensed products bearing the Complainant's trademark and benefit from the Complainant's reputation by generating confusion among Internet users.

Therefore, the Panel is satisfied that the Respondent must have been aware of the Complainant and the Complainant's trademark CALL IT SPRING when it registered the disputed domain name.

In addition, the disputed domain name resolves to a website displaying the Complainant's trademark CALL IT SPRING and offering CALL IT SPRING branded products such as shoes and bags at heavily discounted prices. The Panel finds that the Respondent's use of the disputed domain name was intended to attract and mislead Internet users when searching for the Complainant's website and to redirect them to a website from which the Respondent derives commercial revenue by creating a likelihood of confusion with the Complainant's trademark.

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 <callitspringenecuador.com> be transferred to the Complainant.

/Gustavo Patricio Giay/

Gustavo Patricio Giay

Sole Panelist

Date: November 14, 2024