

ADMINISTRATIVE PANEL DECISION

Calzedonia S.p.A. v. pamir altar
Case No. D2024-4005

1. The Parties

The Complainant is Calzedonia S.p.A., Italy, represented by Novagraaf Nederland B.V., Netherlands (Kingdom of the).

The Respondent is pamir altar, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <iumanintimissimiuomo.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 30, 2024. On September 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 2, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 3, 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 amendment to the Complaint on October 4, 2024.

The Center verified that the Complaint together with the amendment to 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 October 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 31, 2024.

The Center appointed Kateryna Oliynyk as the sole panelist in this matter on November 7, 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 Complaint is generally known as a fashion brand that produces ladies', men's, and children's sock, hosiery, and beachwear.

The Complainant is the owner of the following trademark registrations:

- European Union Trademark Registration No. 018988780 for IUMAN, registered on July 20, 2024, filed on February 21, 2024, for goods and services in International Classes 3, 25, and 35;
- European Union Trademark Registration No. 018988819 for IUMAN INTIMISSIMI UOMO, registered on July 20, 2024, filed on February 21, 2024, for goods and services in International Classes 3, 25, and 35;
- European Union Trademark Registration No. no. 013897681 for INTIMISSIMI UOMO, registered on August 27, 2015, filed on March 31, 2015, for goods and services in International Classes 3, 25, and 35;
- European Union Trademark Registration No. no. 018332397 for INTIMISSIMI UOMO, registered on April 22, 2021, filed on November 5, 2020, for goods and services in International Classes 3, 25, and 35.

The disputed domain name was created on February 21, 2024, and resolves to the website where the disputed domain name is offered for sale.

5. Parties' Contentions

A. Complainant

Identical or confusingly similar

The Complainant states that the disputed domain name is confusingly similar with the Complainant's trademarks as the disputed domain name includes the Complainant's IUMAN, INTIMISSIMI UOMO, and IUMAN INTIMISSIMI UOMO trademarks. The Complainant further contends that apart from the term "uomo" (which means "man" in Italian) the word elements of the disputed domain name have no meaning, nor any meaning in relation to the goods and services for which the trademarks are applied for. That makes the Complainant's trademarks highly distinctive.

Rights or legitimate interests

The Complainant contends that the Respondent lacks any rights or legitimate interests in the disputed domain name.

According to the Complainant's contentions, the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services, and has not been authorized, licensed, or otherwise permitted by the Complainant to register the disputed domain name.

The disputed domain name creates a likelihood of confusion amongst the public, because the disputed domain name falsely creates the impression that it is linked to the Complainant.

The Complainant further claims that the Respondent has no trademark registrations for IUMAN and/or INTIMISSIMI UOMO and/or IUMAN INTIMISSIMI UOMO and/or IUMANINTIMISSIMIUOMO.

The Complainant further states that the Respondent did not use any disclaimer on the website behind the disputed domain name whatsoever, falsely creating the impression that the Respondent is economically connected with the Complainant.

Registration and use in bad faith

The Complainant contends that the Respondent knew of the Complainant's trademarks when registering the disputed domain name.

The Complainant further asserts that the disputed domain name in itself suggests at least an affiliation with the Complainant and its trademarks.

The Complainant submits that the Respondent is currently offering to sell the disputed domain name for an amount well in excess of its out-of-pocket costs, which constitutes bad faith under section 4(b)(i) of the Policy.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "[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 directs that the Complainant must prove each of the following:

- i that the disputed domain name is identical or confusingly similar to a trademark 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.

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its decision on the statements and documents submitted in accordance with the Policy and the Rules. Under paragraph 5(f) and paragraph 14(b) of the Rules, if a respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint, and where a party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

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 IUMAN INTIMISSIMI UOMO and INTIMISSIMI UOMO trademarks is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the IUMAN INTIMISSIMI UOMO trademark and confusingly similar to the INTIMISSIMI UOMO trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the IUMAN INTIMISSIMI UOMO and INTIMISSIMI UOMO trademarks are recognizable within the disputed domain name. Accordingly, the disputed domain name is identical to the IUMAN INTIMISSIMI UOMO trademark and confusingly similar to the INTIMISSIMI UOMO trademark 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.

The Panel notes that there is no evidence that the Respondent is commonly known under the IUMAN INTIMISSIMI UOMO or INTIMISSIMI UOMO trademarks. According to the Complainant, it has not authorized the Respondent to use the IUMAN INTIMISSIMI UOMO and INTIMISSIMI UOMO trademarks nor the Complainant does carry out any activity for or has any business with the Respondent.

Further, the Panel notes that neither license nor authorization appears to have been granted to the Respondent to make any use of the Complainant’s IUMAN INTIMISSIMI UOMO and INTIMISSIMI UOMO trademarks, or to apply for registration of the disputed domain name by the Complainant.

In addition, the website to which the disputed domain name redirects offers the disputed domain name for sale to the public at a price likely in excess of out-of-pocket costs, which could not be considered a bona fide offering of goods or services or justifying rights and legitimate interests on behalf of the Respondent.

Therefore, in the opinion of this Panel, the Complainant has fully demonstrated that the Respondent lacks rights or legitimate interests in 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.

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.

In the present case, the Panel finds that the Respondent registered the disputed domain name for the purpose of selling it for an amount likely in excess of its out-of-pocket costs relating to the registration of the disputed domain name.

The Respondent has registered the disputed domain name which is identical to the IUMAN INTIMISSIMI UOMO trademark and confusingly similar to the INTIMISSIMI UOMO trademarks for which the Complainant has registered prior rights and has not used the disputed domain name other than to offer it for sale. The Respondent has not provided any explanation for the registration. In the absence of any explanation or any obvious reason why the Respondent would register a domain name incorporating the Complainant's trademarks and direct it to a website offering the disputed domain for sale the Panel concludes that the registration was motivated by an awareness of the Complainant's trademarks and with the purpose of selling it for a sum greater than any out-of-pocket costs related to the disputed domain name. Pursuant to 4(b)(i) of the Policy, the Respondent has registered and used the Domain Name in 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 <iumanintimissimiuomo.com> be transferred to the Complainant.

/Kateryna Oliinyk/

Kateryna Oliinyk

Sole Panelist

Date: November 28, 2024