

## **ADMINISTRATIVE PANEL DECISION**

### **Global Ingross SpA v. Svitala Panova**

### **Case No. D2022-2784**

#### **1. The Parties**

Complainant is Global Ingross SpA, Italy, represented by Dr. Modiano & Associati S.p.A, Italy.

Respondent is Svitala Panova<sup>1</sup>, Ukraine.

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

The disputed domain name <centercasa.com> is registered with GoDaddy.com, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 28, 2022. On July 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 29, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on August 4, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 8, 2022.

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 Respondent of the Complaint, and the proceedings commenced on August 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 6, 2022.

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<sup>1</sup> At the time of the filing of the Complaint, the Respondent’s identity was masked by a privacy service

The Center appointed Marina Perraki as the sole panelist in this matter on September 30, 2022. 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. Further Procedural Considerations**

##### **A. Respondent's location**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. Noting that Respondent's disclosed location appears to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue. Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel has reached this conclusion in part due to Respondent's apparent awareness of the proceeding and control over the Domain Name. Further to the Rules, the Center transmitted the Written Notice of the Complaint to both the named Privacy Service and Respondent. The Center also sent the Notification of Complaint by email to Respondent at its email address as registered with the Registrar and to a postmaster email address as specified by the Rules. There is no evidence that the case notification email to the disclosed Respondent email address was not successfully delivered.

It is moreover noted that, for the reasons which are set out later in this Decision, the Panel has no serious doubt (albeit in the absence of any Response) that Respondent registered and has used the Domain Name in bad faith. The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

##### **B. Complainant's locus standi.**

Complainant is the exclusive licensee of the trademark CENTERCASA and design registered in Italy under No. 673934 on March 26, 1996, filed on June 25, 1996, by the company Tanduo SPA and has authorization from the trademark owner to file the present complaint. Therefore, Complainant has standing for filing the Complaint (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.4.1).

#### **5. Factual Background.**

Complainant is the sole shareholder of the company Centercasa SPA, a company which started using the brand CENTERCASA on January 8, 1988. The trademark CENTERCASA and design was filed in Italy on June 25, 1993, by the company Tanduo SPA and it was registered under No. 673934 on March 26, 1993 for goods in international classes 8, 11, 20, 21 and 28. Complainant is the exclusive licensee of this trademark.

Complainant is an Italian company operating in the large scale retail sector for toys, DIY goods and home accessories, with several sales points in Italy.

The Domain Name was registered on May 9, 2003. From the historical Whois data included in the Complaint, it would appear that the Domain Name was acquired by Respondent on June 8, 2022. Previously, per the Complaint, the Domain Name redirected to a pornography site, to pages containing pay-per-click (PPC) links related to Complainant's business, while it was being offered for sale for the amount of USD 61,000. Subsequently it led to a page containing links unrelated to Complainant's business. It currently redirects to a third party website.

## 6. Parties' Contentions

### A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Name.

### B. Respondent

Respondent did not reply to Complainant's contentions.

## 7. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements, which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

The Domain Name incorporates Complainant's CENTERCASA trademark in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Name is confusingly similar to Complainant's CENTERCASA trademark.

Complainant has established Policy, paragraph 4(a)(i).

### B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to Respondent of the dispute, Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Name, even if it has acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name. Respondent has not replied to Complainant's contentions and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per the Complaint, Respondent was not authorized to register the Domain Name.

There is no evidence that Respondent has been commonly known by the Domain Name.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant has demonstrated, the Domain Name at times redirected to a website with adult content and to a website with links related to Complainant's business. Subsequently it led to a page containing links unrelated to Complainant's business, while currently it redirects to a third party site. Furthermore, the Domain Name was offered for sale for USD 61,000.

The use of a domain name to redirect to a page containing adult content or sponsored listings does not represent a *bona fide* offering where such links capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users, such as in the case at issue (*MatchNet plc. v. MAC Trading*, WIPO Case No. [D2000-0205](#)).

Furthermore, the Domain Name consists entirely of Complainant's trademark and thus carries a risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in bad faith:

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

(ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith.

Complainant's mark CENTERCASA had been used and registered at the time of the Domain Name registration by Respondent. Therefore, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#)).

Respondent should have known about Complainant's rights, as such knowledge is readily obtainable through a simple browser search (*Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#); *Compart AG v. Compart.com / Vertical Axis, Inc.*, WIPO Case No. [D2009-0462](#)).

Moreover, Respondent could have searched trademark registry databases and would have found Complainant's prior registration in respect of the CENTERCASA trademark (*Citrix Online LLC v. Ramalinga Reddy Sanikommu Venkata*, WIPO Case No. [D2012-1338](#)).

As regards bad faith use, Complainant demonstrated that the Domain Name was offered for sale for an amount that likely exceeds the acquisition price paid by Respondent, that at times it redirected to a pornographic site and to pages containing PPC links related to Complainant's business. Subsequently it lead to a page containing links unrelated to Complainant's business. The Domain Name currently redirects to a third party website.

Under these circumstances and on this record, the Panel finds that Respondent has registered and is using the Domain Name in bad faith.

Complainant has established Policy paragraph 4(a)(iii).

## 8. 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 <centercasa.com> be transferred to Complainant.

*/Marina Perraki/*

**Marina Perraki**

Sole Panelist

Date: October 14, 2022