

ADMINISTRATIVE PANEL DECISION

Guccio Gucci S.p.A. v. Şahan Halı Şahıs Şirketi
Case No. D2024-2841

1. The Parties

The Complainant is Guccio Gucci S.p.A., Italy, represented by Studio Barbero S.p.A., Italy.

The Respondent is Şahan Halı Şahıs Şirketi, Türkiye.

2. The Domain Names and Registrar

The disputed domain names <guccicarpet.com> and <guccihali.com> are registered with ODTÜ Geliştirme Vakfı Bilgi Teknolojileri Sanayi Ve Ticaret Anonim Şirketi (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 11, 2024. On July 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 16, 2024, the 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 Complainant on July 16, 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 July 16, 2024.

On July 16, 2024, the Center informed the parties in Turkish and English, that the language of the registration agreement for the disputed domain names is Turkish. On July 16, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 July 25, 2024. In accordance with the Rules, paragraph 5,

the due date for Response was August 14, 2024. The Respondent sent email communications to the Center on August 2, and August 7, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on August 23, 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 company, which is internationally renowned for its luxury fashion and accessories.

The Complainant is the owner of the well-known GUCCI trademark, which is registered in many jurisdictions worldwide, including in Türkiye, where the Respondent is reportedly located. Among many others, the Complainant is the owner of the Turkish Trademark Registrations No. 135812, registered on November 11, 1982, for GUCCI, covering protection for goods as protected in classes 3, 6, 18, 25, and 34 (Annex 3.9 to the Complaint).

The Complainant further holds and operates a large number of domain names comprising its GUCCI trademark, such as “www.gucci.com”.

Both disputed domain names were registered on January 22, 2023.

According to the case record, the disputed domain names have apparently not yet been linked to active websites, but resolve to a landing page indicating that the disputed domain names are under construction (Annex 8 to the Complaint).

In 2023, the Respondent (or seemingly a party related to the Respondent) tried to register a Turkish trademark for “Gucci Carpet”, which was rejected by the Turkish Patent and Trademark Office upon the opposition proceedings filed by the Complainant (Annex 11.1 to the Complaint). During that period, the Respondent offered to transfer its Turkish trademark application and the disputed domain names to the Complainant for an amount of TRY 100,000, which at that time was more than USD 3,700 (Annex 9.1 to the Complaint).

On May 2, 2024, the Complainant sent a cease-and-desist letter to the Respondent, and tried to solve the dispute amicably by inter alia requesting the transfer of the disputed domain names (Annex 10.1 to the Complaint).

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 names.

B. Respondent

The Respondent did not reply to the Complainant's contentions. The Center received two brief and informal email communications from the Respondent on August 2 and 7, 2024 in Turkish language, merely asking for clarification of what this case is about. The Respondent did not submit any substantive argument or evidence.

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Turkish. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Complainant has no knowledge of Turkish and that a requested translation would be time and costs intensive.

The Respondent did not make any specific submissions with respect to the language of the proceeding, even though communicated by the Center in Turkish and English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel believes that the Respondent will not be prejudiced by a decision being rendered in English, and determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Issues

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

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

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the [WIPO Overview 3.0](#).

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

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 names. [WIPO Overview 3.0](#), section 1.7.

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

The entirety of the GUCCI mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the GUCCI mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here “carpet” and “hali”, which is Turkish and means “carpet” in the English language, 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 names and the GUCCI mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 names. In the absence of a substantive response, 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 names such as those enumerated in the Policy or otherwise.

Further, the Panel particularly notes the nature of the disputed domain names, which comprise the Complainant’s well-known GUCCI trademark in its entirety. In view of the Panel, this clearly indicates the Respondent’s awareness of the Complainant and its GUCCI trademark and its illicit intent to take unfair advantage of it, which does not support a finding of any rights or legitimate interests.

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 notes that the Respondent must have had the Complainant and its well-known GUCCI trademark in mind when registering the disputed domain names. It is obvious to the Panel, that the

Respondent has deliberately chosen the disputed domain names, which are comprising the Complainant's GUCCI trademark entirely, to target and mislead Internet users searching for the Complainant and its products. Consequently, the Panel is convinced that the Respondent has registered the disputed domain names in bad faith.

As regards bad faith use, the Panel notes that the disputed domain names have apparently not yet been linked to an active website, but resolve to a general "under construction" page only. The fact that the disputed domain names have so far never resolved to active websites does not prevent a finding of bad faith. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and notoriety of the Complainant's GUCCI trademark, and the inherently misleading composition of the disputed domain names, which comprise the entirety of the GUCCI trademark, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

Bearing also in mind that an offer for sale may already be an indication of bad faith, according to the paragraph 4(b)(i) of the Policy, the Panel notes the Respondent's offer to sell the disputed domain names to the Complainant to a price in excess to his out-of-pocket expenses. The Panel finds that such offer for sale of the disputed domain names clearly falls within the ambit of paragraph 4(b)(i) on registration and use in bad faith.

In addition, the Panel finds that the failure of the Respondent to submit a substantial response to the Complainant's contentions further affirms the Panel's conclusion on the Respondent's bad faith.

Taking all facts of the case into consideration, the Panel is convinced that this is a typical cybersquatting case, which the UDRP was designed to stop.

Consequently, 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 names <guccicarpet.com> and <guccihali.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: September 6, 2024