

ADMINISTRATIVE PANEL DECISION

Corneliani S.p.A. v. Zhang Qiang

Case No. D2024-4966

1. The Parties

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

Respondent is Zhang Qiang, China.

2. The Domain Name and Registrar

The disputed domain name <cornelianiaustralia.com> is registered with Paknic (Private) Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 2, 2024. On December 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 4, 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 (Unknown) and contact information in the Complaint.

The Center sent an email communication to Complainant on December 9, 2024, 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 December 11, 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 Respondent of the Complaint, and the proceedings commenced on December 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 6, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 13, 2025.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on January 16, 2025. 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

Complainant is an Italian company engaged in the fashion industry with a history that dates back to the 1930s. Complainant's business began with Alfredo Corneliani, who started the artisanal production of raincoats and outerwear. Later, the company grew after the Second World War and became a reference in the men's clothing sector.

Complainant is the owner of registrations throughout the world for the CORNELIANI trademark and also of domain names containing said trademark such as <corneliani.com>, <corneliani.it>, and <corneliani.au>.

Some examples of Complainant's trademarks registrations for CORNELIANI can be found below:

Registration	Trademark	Jurisdictions	International Class	Registration Date
362023000188325		Italy	3, 5, 9, 14, 16, 18, 20, 24, 25, 26, 41, 42 and 44	August 19, 2014 (renewal on March 6, 2024)
123323	CORNELIANI	European Union	3, 9, 18 and 25	March 22, 1999 (renewal on April 1, 2016)
18317538	CORNELIANI	European Union	3, 9, 14, 18, 35, 41 and 42	May 1, 2021
343774	CORNELIANI	Australia	25	August 30, 1983 (renewal on March 3, 2021)
1435037	CORNELIANI ID	International	3, 9, 14, 18 and 25	April 11, 2018
452894	CORNELIANI	International	3, 9, 14, 18, 24, 25 and 26	June 18, 1980
860616		International	18, 24 and 25	July 18, 2005

The disputed domain name was registered on August 15, 2023, and resolves to a website that displays the trademark and products of Complainant and offers said products for sale.

5. Parties' Contentions

A. Complainant

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

Notably, Complainant contends that the disputed domain name is identical to the trademark CORNELIANI owned by Complainant, arguing that the disputed domain name is composed by the exact reproduction of

the CORNELIANI trademark with the addition of the geographical indication “australia”, which does not prevent the possibility of confusion with Complainant’s registrations.

Moreover, Complainant claims that the disputed domain name is also confusingly similar to domain names owned by Complainant, such as <corneliani.com>, <corneliani.it>, and <corneliani.au>.

Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant’s trademark CORNELIANI and owned domain names, fulfilling paragraph 4(a)(i) of the Policy and paragraphs 3(b)(viii) and (b)(ix)(1) of the Rules.

Complainant asserts that Respondent has no relationship with Complainant and that no business or activities have ever been conducted between them. Also, Complainant affirms that has neither authorized, nor somehow given its consent to Respondent to register or use the disputed domain name.

To Complainant, it is apparent that Respondent is making an illegitimate and unfair use of the disputed domain name with the intent for commercial gain misleadingly to divert consumers and/or to harm Complainant’s business reputation, since the disputed domain name reverts to a website that displays Complainant’s trademark and products and offers said products on sale.

In this manner, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, fulfilling paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules.

Finally, Complainant urges that the disputed domain name was registered and is being used in bad faith. Complainant contends that Respondent knew or should have known about the existence of Complainant’s rights to the CORNELIANI trademark at the time of the registration of the disputed domain name. Thus, Respondent exercised a willful blindness of Complainant’s earlier rights.

Complainant argues that Respondent is unfairly and intentionally taking advantage of, and exploiting without authorization, the reputation and distinctiveness of Complainant’s trademark CORNELIANI to attract Internet users to the website related to the domain name at issue creating a likelihood of confusion since the disputed domain name resolves to a scam website, which reproduces Complainant’s official website.

Additionally, Complainant highlights that the practice encapsulated in the present Complaint is something usual for Respondent, which has been involved in at least twenty UDRP procedures as respondent.

Thus, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraphs 4(a)(iii) and 4(b) of the Policy and paragraph 3(b)(ix)(3).

Accordingly, Complainant requests transfer of the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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.

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the Panel's decision shall be based upon the complaint.

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 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.

Based on the available record, the Panel find that 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 trademark CORNELIANI 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 the geographical term "australia" may bear on assessment of the second and third elements, the Panel finds the addition of such indication 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. Another Panel reached the same conclusion in the recent WIPO Case No. [D2023-0298](#):

"The addition of the word 'sci', which is the Italian version of 'ski', and the geographical term "Italia", cannot prevent a finding of confusing similarity. According to section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element'."

Based on the available record, 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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 Complainant argues that Respondent is using the disputed domain names to create confusion among Internet users and create the impression that Respondent's website is affiliated with or endorsed by Complainant. Respondent has failed to refute said claim. Moreover, the composition of the disputed domain names by itself carries a risk of implied affiliation to Complainant, and as such, cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, Respondent is not entitled to any trademark, trade name, or any other right associated with the disputed domain name. Additionally, Respondent has not been authorized by Complainant to use the CORNELIANI trademark, and there is no commercial relationship between the Parties. Respondent is not recognized by the disputed domain name, and the Panel notes that such disputed domain name resolves to websites in which Respondent presents itself as Complainant or at least as a company linked to Complainant. In light of these circumstances, the panel finds that no rights or legitimate interests can be found on behalf of Respondent.

Also, Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) 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 the present case, the Panel notes that Respondent has registered the disputed domain name that is confusingly similar to Complainant's trademark CORNELIANI, as explained above in 6.A. Also, based on the available record, Respondent has no affiliation with Complainant and the trademark CORNELIANI, nor has it sought authorization or a license to utilize the referred trademarks. Respondent also does not own any trademarks containing the term CORNELIANI or any related terms.

Furthermore, considering Complainant's significant worldwide reputation in connection with the men's fashion industry, Respondent evidently knew or should have known of the existence of Complainant's prior trademark rights and domain names, which were matters of public record, before registering the disputed domain name. Thus, Respondent must have had knowledge of Complainant's pre-existing rights in the CORNELIANI trademark, and should also have known about Complainant's domain names such as <corneliani.com>, <corneliani.it>, and <corneliani.au>.

The registration of the disputed domain name was carried out by Respondent, who had the responsibility to verify the existence of the referred trademarks. Therefore, it may be inferred that the registration of the disputed domain name was intentionally done with the aim of profiting from the reputation of Complainant's trademarks in question. This action creates a likelihood of confusion among Internet users, considering especially Respondent's use of the disputed domain names, suggesting an association with Complainant and falsely implying that the disputed domain name is associated or belongs to Complainant.

On the website which purports form the disputed domain name, Respondent allegedly showcases the CORNELIANI trademark while also purportedly offering Complainant's products on sale. Therefore, the Panel understands that the use practiced by Respondent, according to evidence brought by Complainant, indicates Respondent's intention to impersonate Complainant's business to try to obtain undue commercial advantage via the provocation of a confusing similarity.

Panels have held that the use of a domain name for illegal activity (i.e. impersonation/passing off, or other types of fraud, in this case), constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. In this sense, the Panel reached a similar conclusion in the recent WIPO Case No. [D2024-2344](#):

"Panels have held that the use of a domain name for illegal activity here the purportedly offering and or sale of counterfeit products, and impersonation of the Complainant constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. In addition, irrespective of whether the Complainant's products are counterfeits or not, the Panel finds that the Respondent by using the Domain Name, has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's Mark as to the source, sponsorship, affiliation, or endorsement of its website. Having reviewed the record, the Panel finds Respondent's registration and use of the Domain Name constitutes bad faith under the Policy."

The Panel finds that the circumstances of the present case allow for a finding of bad faith in the registration and use of the disputed domain name, considering that (i) Respondent would likely obtain commercial gain by using a confusingly similar name to Complainant's trademark; and (ii) Respondent was most likely aware of Complainant's rights on the trademark CORNELIANI, considering especially Respondent's use of the website under the disputed domain name, which aimed to create a likelihood of confusion within Internet users to suggest an affiliation with Complainant.

It is also relevant to note that Respondent has figured as respondent in UDRP Complaints over twenty times (such as cases *MTD Products Inc v. Zhang Qiang*, WIPO Case No. [D2024-2501](#); *Tricots Saint-James, SAS v. Zhang Qiang*, WIPO Case No. [D2024-2382](#); *Black Diamond Equipment, Ltd v. Zhang Qiang*, WIPO Case No. [D2024-2009](#); *Tiger of Sweden AB v. Zhang Qiang*, WIPO Case No. [D2024-1961](#); *10days Wholesale B.V. v. Scott Clarke / Zhang Qiang*, WIPO Case No. [D2024-1896](#); *Aldo Group International GmbH v. Zhang Qiang*, WIPO Case No. [D2024-1311](#); *Kybun Joya Retail AG v. Zhang Qiang*, WIPO Case No. [D2024-0824](#); *R.C. Trademarks S.r.l., Giovanni Caldarelli, Essedi S.p.A. v. Zhang Qiang*, WIPO Case No. [D2024-0809](#); *Frankie Shop LLC v. Zhang Qiang*, WIPO Case No. [D2024-0776](#); *10Days Wholesale B.V. v. Zhang Qiang*, WIPO Case No. [D2024-0732](#); and *Peter Millar LLC v. Zhang Qiang*, WIPO Case No. [D2024-0644](#)), according to evidence brought to by Complainant (corroborated by WIPO's database) – all of them with transfer or cancellation decisions from the respective Panel. That undoubtedly indicates, in the circumstances of the present case, that Respondent a pattern of bad faith.

Lastly, the Panel finds it is relevant that Respondent has not provided any evidence of good faith registration or use, or otherwise participated in this dispute.

Based on the available record, the Panel finds that 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 <cornelianaustralia.com> be transferred to the Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: January 30, 2025