

## **ADMINISTRATIVE PANEL DECISION**

Raffaele Caruso S.p.A. or shortly Caruso S.p.A. v. Dawn Davis  
Case No. D2025-0016

### **1. The Parties**

The Complainant is Raffaele Caruso S.p.A. or shortly Caruso S.p.A., Italy, represented by Società Italiana Brevetti, Italy.

The Respondent is Dawn Davis, United States of America (U.S).

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

The disputed domain name <carusowholesale.shop> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 3, 2025. On January 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 4, 2025, 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 (Dawn Davis) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 6, 2024, providing the registrant and contact information disclosed by the Registrar.

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 January 8, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 31, 2024.

The Center appointed Halvor Manshaus as the sole panelist in this matter on February 4, 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**

The Complainant is an Italian company founded in the 1950s that operates in the fashion industry.

The Complainant holds several trademarks comprising of the mark CARUSO, including:

- The Italian trademark registration number 362019000023481, registered on August 13, 2019, for various goods in classes 18 and 25 (renewal of earlier registration No. 302009901710690 registered on August 27, 2009).
- The Italian trademark registration number 362024000039382, registered on June 24, 2024, for various goods and services in classes 9, 14, 16, 24, 26, 35, and 42 (renewal of earlier registration No. 302014902250306 registered on January 20, 2015).
- The European Union trademark registration number 1015735, registered on August 27, 2009, for various goods in classes 18 and 25.
- The European Union trademark registration number 1259542, registered on October 6, 2014, for various goods and services in classes 9, 14, and 35.
- The United States of America trademark registration number 3860863, registered on October 12, 2010, for various goods in class 25.

Furthermore, the Complainant also holds domain names comprising the CARUSO mark, such as <carusomenswear.com>.

The disputed domain name was registered on September 29, 2024, and has been used to redirect Internet users to a website offering clothing and accessories for sale.

#### **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.

Notably, the Complainant contends that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The disputed domain name comprises the Complainant's trademark, including the descriptive term "wholesale" which may confuse Internet users to believe that the disputed domain name provides information of the Complainant, as well as the gTLD ".shop". Furthermore, the disputed domain name was registered long after the Complainant's well-known trademark.

Further, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not authorized or given consent to the Respondent to register or use the disputed domain name. The Respondent has no trademark registrations or applications related to the disputed domain name, nor is there any relationship between the Complainant and the Respondent. The disputed domain name resolves to a website where clothing and accessories are sold, similar to the products in interest for the Complainant.

Lastly, the Complainant argues that the disputed domain name was registered and is being used in bad faith. At the time of registration, the Complainant's trademark was already well-established and reputable. The Respondent knew or should have known of the Complainant's trademark rights. The inclusion of the term "wholesale" alongside the Complainant's trademark further indicates an intent to mislead. Additionally, the Respondent has used a privacy protection service to conceal its identity, which indicates bad faith registration.

The disputed domain name is neither used in good faith for the legitimate offering of goods and services to the public nor for a bona fide commercial or noncommercial purpose. Instead, its use appears to be intended to mislead consumers, create confusion, and potentially infringe upon or tarnish the Complainant's trademark. Furthermore, it deprives the Complainant of the opportunity to register a domain name in which it has a legitimate interest.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 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, "wholesale", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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. The Complainant's trademark is clearly recognizable within the disputed domain name, and as such the inclusion of the additional elements does not prevent a finding of confusing similarity.

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 is not known under the disputed domain name and has not received authorization or consent to use the Complainant's trademark. Moreover, the disputed domain name is confusingly similar to the Complainant's trademark and has been used to revert to a website offering goods similar to those sold by the Complainant. In the Panel's view, such use does not establish a legitimate interest in the 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 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 it unlikely that the Respondent was unaware of the Complainant's trademark rights, given that the trademark is well-known and predates the registration of the disputed domain name.

Additionally, the disputed domain name incorporates the Complainant's well-known trademark in its entirety and the term "wholesale" implies an affiliation between the Complainant and the disputed domain name. The disputed domain name has also been used to redirect to a website offering goods similar to those offered by the Complainant under its trademark. Based on this, the Panel concludes that the Respondent registered and is using the disputed domain name with the intent to attract Internet users for commercial gain, creating a likelihood of confusion with the Complainant's trademark. This conduct clearly constitutes bad faith registration and use. Furthermore, the use of a privacy protection service to conceal the Respondent's identity further supports the Panel's finding of bad faith registration and use.

As such, 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 <carusowholesale.shop> be transferred to the Complainant.

*/Halvor Manshaus/*

**Halvor Manshaus**

Sole Panelist

Date: February 18, 2025