

Decision for dispute CAC-UDRP-103496

Case number	CAC-UDRP-103496
-------------	------------------------

Time of filing	2022-01-19 09:39:46
----------------	----------------------------

Domain names	neutria.com
--------------	--------------------

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
--------------	--

Complainant

Name	Jens Hünérberg
------	-----------------------

Respondent

Name	Jin H. Park
------	--------------------

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

Complainant is the owner of Swiss trademark reg. No. P-547179 NEUTRIA, filed on 22 March 2006 and granted on 5 July 2006, for services in classes 35, 36, 38 and 42.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

- Current third party registration of <neutria.com> renders use by trademark owner and company of this name impossible;
- Both, the trademark and the company are owned by the Complainant while the Respondent has not provided any rights;
- The disputed domain name is configured for domain parking and neither used for www nor for e-mail services;
- The Respondent offers the disputed domain name for 3.500 EUR to the public on the domain parking website;
- E-mail to the contact e-mail address of the Respondent asking for a transfer of the domain has been replied to on 15 February 2021. In the Respondent's reply, the Complainant has been asked about the maximum amount that he can pay and granted a three day response time. This underpins, that the disputed domain name is not actively used by the Respondent and probably only held for selling it for the highest possible bid.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

I. RIGHTS

The disputed domain name is identical to the Complainant's registered trademark NEUTRIA.

II. NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent has not submitted any response. Therefore, it has submitted no information on possible rights or legitimate interests it might hold. On its part, the Complainant has submitted information and arguments which allow it to be reasonably assumed that the Respondent has no rights or legitimate interest in the domain name in dispute.

As the WIPO Arbitration and Mediation Center pointed out in UDRP case No. D20020856:

"As mentioned [in the decision], the Respondent has not filed a Response and is therefore in default. In those circumstances when the Respondent has no obvious connection with the disputed domain name, the prima facie showing by the Complainant that the Respondent has no right or legitimate interest is sufficient to shift the burden of proof to the Respondent to demonstrate that such a right or legitimate interest exists." WIPO Case No. D20020273 <sachsenanhalt>; WIPO Case No. D20020521 <volvovehicles.com>.

Furthermore, the Complainant contacted the Respondent requesting the voluntary transfer of the domain name in dispute and the Respondent replied that NEUTRIA is a dictionary noun and asked "What is the maximum amount you can pay?". To the best of this Panel's knowledge, NEUTRIA is not a dictionary noun and the Respondent did not invoke any right or legitimate interest in his e-mail response.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

III. BAD FAITH

The Respondent has, as a result of his default, not invoked any circumstances which could invalidate the Complainant's allegations and evidence with regard to the Respondent's registration and use of the disputed domain name in bad faith.

The Complainant has clearly established that the disputed domain name is parked and for sale for €3500. The Complainant has also established that in direct contact with the Respondent, the Respondent asked the Complainant what was the maximum amount the Complainant could pay and pressured the Respondent with only three days to respond.

This conduct falls squarely within the scope of Paragraph 4(b) (i) of the Policy provides that the following circumstances are deemed to be evidence that the Respondent has registered and is using the disputed domain name in bad faith:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name.

Furthermore, when preparing this decision this Panel has found that the parking website offers the sale of the domain name for €4800.

It has, therefore, been satisfactorily demonstrated to the Panel that the disputed domain name has been registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **NEUTRIA.COM**: Transferred

PANELLISTS

Name	José Ignacio San Martín
------	--------------------------------

DATE OF PANEL DECISION	2022-02-18
------------------------	------------

Publish the Decision