

Decision for dispute CAC-UDRP-105467

Case number	CAC-UDRP-105467
Time of filing	2023-05-24 09:26:57
Domain names	corelle-dinnerware.com

Case administrator

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

Organization	Instant Brands LLC
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Complainant representative

Organization	Stobbs IP Ltd
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Respondent

Name	Daviti Khomasuridze
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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

The Complainant has submitted evidence, which the Panel accepts, showing that it is the registered owner of the “CORELLE” trademarks on various goods and services related to, *inter alia*, dinnerware in various countries. The Complainant's certain “CORELLE” trademarks are, *inter alia*, the following:

- China trademark n° 258707 registered on August 9, 1986;
- China trademark n° 39201377 registered on June 7, 2020;
- Canada trademark n° TMA167153 registered on January 2, 1970;
- United Kingdom trademark n° UK00904259231 registered on March 27, 2006.

Moreover, the Complainant is also the owner of the domain name <corelle.com> registered on November 9, 2000.

FACTUAL BACKGROUND

The Complainant is a company operating worldwide in the field of dinnerware goods and related services since 1970. In 2019, Corelle

Brands LLC merged with Instant Brands Inc, creating a company with an enterprise value over \$2 billion.

The Complainant holds several trademark registrations for “CORELLE” dating back to 1970 in various countries and domain name incorporating “CORELLE” trademark as <corelle.com>.

On December 30, 2022; the Respondent registered the disputed domain name <corelle-dinnerware.com>. The disputed domain name is currently inactive.

PARTIES CONTENTIONS

COMPLAINANT:

THE DISPUTED DOMAIN NAME IS CONFUSINGLY SIMILAR

The Complainant contends that the disputed domain name <corelle-dinnerware.com> is confusingly similar to its well-known trademark “CORELLE”. The Complainant claims that its trademark “CORELLE” is incorporated verbatim in the disputed domain name <corelle-dinnerware.com> and the addition of the descriptive term “DINNERWARE” does not prevent the likelihood of confusion between the disputed domain name and the Complainant’s trademarks.

NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and he is not related in any way with the Complainant.

The Complainant submits that the Respondent is using the disputed domain name to resolve to an infringing website, which offers for sale and/or advertises the sale of counterfeit and knockoff products infringing various intellectual property rights held by the Complainant. It is claimed that the Respondent’s use of the disputed domain name is merely to impersonate/pass off as the Complainant in order to sell counterfeit, and this shows that the Respondent is not using the disputed domain name in relation to a *bona fide* offering of goods or services.

The Complainant also asserts that the Respondent has never legitimately been known by the name “CORELLE” at any point in time.

THE DISPUTED DOMAIN NAME WAS REGISTERED AND IS USED IN BAD FAITH

The Complainant claims that its trademarks pre-dates the registration of the disputed domain name and they enjoy a wide reputation. Furthermore, it is claimed that the Respondent was unequivocally aware of the “CORELLE” trademark given the Respondent’s infringing website is set up to impersonate/pass off as the Complainant in order to sell counterfeit products. Therefore, the Complainant submits that the Respondent had knowledge of its trademarks and that the disputed domain name is registered with the sole purpose of targeting the Complainant’s registered trademarks.

The Complainant also submits that the Respondent has registered the disputed domain name in bad faith by intentionally attempting to attract, for commercial gain, Internet users to its website infringing the Complainant’s trademark rights, by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of the infringing website under Policy, Paragraph 4(b)(iv).

It is claimed that the Respondent has registered the disputed domain name in order to drive Internet traffic to its infringing website in order to impersonate/pass off as the Complainant to sell counterfeit products and using a trademark to divert traffic to the Respondent’s own website is consistently held by panelists to amount bad faith registration and use under Policy, Paragraph 4(b)(iv).

The Complainant further submits that the Respondent disrupts the Complainant’s business by diverting potential customers to its infringing website selling counterfeit products. Using a confusingly similar domain name in a manner disruptive of a Complainant’s business by trading upon the goodwill of a Complainant for the commercial gain is asserted to evidence bad faith under paragraph 4(b)(iii) and (v) of the Policy.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name <corelle-dinnerware.com> in bad faith.

RESPONDENT:

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

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In this context, the Panel also notes that the burden of proof is on the Complainant to make out its case and past UDRP panels have consistently said that a Complainant must show that all three elements of the Policy have been made out before any order can be made to transfer a domain name.

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- ii. the 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 Panel will therefore deal with each of these requirements in turn.

IDENTICAL OR CONFUSINGLY SIMILAR

The Policy simply requires the Complainant to demonstrate that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The Panel is satisfied that the Complainant is the owner of registration of “CORELLE” trademarks.

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s “CORELLE” trademark and the addition of the non-distinctive word element “DINNERWARE” is not sufficient to vanish the similarity.

Moreover, the addition of the gTLD “.COM” is not enough to abolish the similarity, as it is merely technical.

The Panel is of the opinion that the Internet users will easily fall into false impression that the disputed domain name is an official domain name of the Complainant. The Panel recognizes the Complainant’s rights and concludes that the disputed domain name is confusingly similar with the Complainant’s trademark. Therefore, the Panel concludes that the requirements of paragraph 4(a)(i) of the Policy is

provided.

2. NO RIGHTS OR LEGITIMATE INTERESTS

Under paragraph 4(a)(ii) of the Policy, the complainant has the burden of establishing that the respondent has no rights or legitimate interests in respect of the domain name.

It is open to a respondent to establish its rights or legitimate interests in a domain name, among other circumstances, by showing any of the following elements:

(i) before any notice to the respondent of the dispute, the use or making 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) the respondent of the dispute (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) the respondent of the dispute is making a legitimate non-commercial or fair use of the domain name, without an intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Thus, if the respondent proves any of these elements or indeed anything else that shows that it has a right or legitimate interest in the disputed domain name, the complainant will have failed to discharge its burden of proof and the complaint will fail. The burden is on the complainant to demonstrate a prima facie case that the respondent does not have rights or legitimate interests in the disputed domain name. Once the complainant has made out a prima facie case, then the respondent may, inter alia, by showing one of the above circumstances, demonstrate rights or legitimate interests in the disputed domain name.

The Complainant contends that the disputed domain name has no relation with the Respondent and the Respondent is not commonly known as the disputed domain name.

In the absence of a compliant response, the Panel accepts the Complainant's allegations as true that the Respondent has no authorization to use the Complainant's trademarks in the disputed domain name.

Hence, as the Complainant has made out its prima facie case, and as the Respondent has not demonstrated any rights or legitimate interests as illustrated under paragraph 4(c) of the Policy, nor has the Panel found any other basis for finding any rights or legitimate interests of the Respondent in the disputed domain name, the Panel concludes that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

3. BAD FAITH

The Panel concludes that the Complainant's "CORELLE" trademark is of distinctive character and is well-known in its sector. Therefore, the Panel is of the opinion that due to the earlier rights of the Complainant in well-known "CORELLE" trademarks, the Respondent, was aware of the Complainant and its trademarks at the time of registration of the disputed domain name (see e.g., *Ebay Inc. v. Wangming*, WIPO Case No. D2006-1107). Referring to *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. D2000-0226, the Panel believes that the awareness of the Complainant's trademark at the time of the registration of the disputed domain name is to be considered an inference of bad faith registration.

Besides, "DINNERWARE" refers to the Complainant's main area of activity and leads the consumers to associate the disputed domain name with the Complainant. Therefore, the mere addition of the non-distinctive word element "DINNERWARE" to the well-known and distinctive "CORELLE" trademark of the Complainant is not sufficient to vanish the similarity, if not increase it, because of its said reference to the Complainant's main area of activity.

Moreover, the link <corelle-dinnerware.com> is currently inactive but in the Complaint, it was explained that it sold counterfeit dinnerware goods under the name of "CORELLE". It can deceive the consumers into thinking the Respondent is affiliated with the Complainant and into buying products through the website of the disputed domain name. The Panel considers that this may be evaluated under (iv) of paragraph 4(b), which is as follows: by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the

complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location. In any case, as previously held by various panelists many times before, the current inactive status of the disputed domain name also does not prevent the finding of bad faith.

Therefore, in light of the above-mentioned circumstances in the present case, the Panel finds that the disputed domain name has been registered and is being used in bad faith and that the Complainant has established the third element under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **corelle-dinnerware.com**: Transferred

PANELLISTS

Name	Mrs Selma Ünlü
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DATE OF PANEL DECISION 2023-06-23

Publish the Decision