Panel Decision for dispute CAC-ADREU-007545

Case number	CAC-ADREU-007545
Time of filing	2017-10-27 12:00:29
Domain names	cateringfieramilano.eu

Case administrator

Aneta Jelenová (Case admin)

Complainant

Organization	Fiera Milano S.p.A.

Respondent

Organization	MORELLI CATERING DI GIUSEPPE MORELLI

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

To the knowledge of the Panel, there are no other legal proceedings pending or decided that relate to the Disputed domain name.

FACTUAL BACKGROUND

The Complainant, Fiera Milano S.p.A. is a leading exhibition group in Italy and Europe, listed on the Italian Stock Exchange, where it is present in the FTSE Italy Small Cap index.

Fiera Milano S.p.A. manages the exhibition area of Milan (one of the largest in Italy) and supplies services for the organizers, exhibitors and visitors, from renting the stands, catering, managing receptions and information points to surveillance services.

Fiera Milano S.p.A. has protected its distinctive logo sign “FIERA MILANO” by registering trademarks both in Italy and internationally.

Fiera Milano S.p.A. is the owner, inter alia, of the following trademarks:
- “FIERA MILANO” trademark in Italy No. 1441643 registered on 07/04/2011 for classes 16, 35, 41, 42, 43;
- “FIERA MILANO” International Trademark No. 1090544 registered on 07/04/2011 for classes 16, 35, 41, 42, 43;
- “FIERA MILANO” European Union Trademark No. 6254213 registered on 20/10/2008 for classes 16, 35, 36, 38, 41, 42, 43.

All the above-mentioned registrations carry international class 43 ("Services for providing food and drink; temporary accommodation"), specifically used to indicate the supply of catering services. Indeed, Fiera Milano S.p.A. is active in the catering business, promoting its services to exhibitors and providing the services directly via its website portal eservice.fieramilano.it.

The Respondent, MORELLI CATERING DI GIUSEPPE MORELLI, holds the Disputed domain name <CATERINGFIERAMILANO.EU> (the “Disputed domain name”) which was registered on 16 May 2017. The Disputed domain name is actually linked to the Respondent’s own website, where it promotes its catering services.

The Respondent did not contest the Complainant’s allegations, but offered to transfer the Disputed domain name at no cost. The Complainant did not reply to the offer.

A. COMPLAINANT

The Complainant considers the Disputed domain name to be confusingly similar to several trademarks it holds.

The Complainant alleges that the Disputed domain name was registered by the Respondent without any rights or legitimate interests in the name, and that the Respondent was never authorized by the Complainant to register such domain, as it has never been granted a

licence or other rights to use its trademarks as part of any domain name or for any other purpose.

The Complainant considers the Respondent not to have any rights or legitimate interest in the Disputed domain name and asserts that the Respondent registered and is using the Disputed domain name in bad faith because the Disputed domain name is intentionally used to attract internet users, for commercial gain, to the Respondent's website <morellicatering.it>.

B. RESPONDENT

The Respondent did not contest the Complainant's assertions but merely offered to transfer the Disputed domain name at no cost.

DISCUSSION AND FINDINGS

The ADR Procedure relates to the domain name <CATERINGFIERAMILANO.EU> (the "Disputed domain name").

The Respondent registered the Disputed domain name on on 16 May 2017 and is currently the holder of the Disputed domain name.

1)

The Complainant is the owner of the following registered trademarks that it uses in connection to its business:
- "FIERA MILANO" trademark in Italy No. 1441643 registered on 07/04/2011 for classes 16, 35, 41, 42, 43;
- "FIERA MILANO" International Trademark No. 1090544 registered on 07/04/2011 for classes 16, 35, 41, 42, 43;
- "FIERA MILANO" European Union Trademark No. 6254213 registered on 20/10/2008 for classes 16, 35, 36, 38, 41, 42, 43.

The Disputed domain name explicitly contains the Complainant's denominative trademark, alongside the word "CATERING", a descriptive term of one of the many services provided by Fiera Milano S.p.A..

Therefore, the Disputed domain name is confusingly similar to a name in which the Complainant has rights.

2)

The Complainant alleges that the Respondent has no authorization to use the Complainant's name and trademark in the Disputed domain name. The Respondent is not commonly known by the Disputed domain name or the name CATERINGFIERAMILANO.

Therefore, the Respondent has no rights or legitimate interest in respect of the Disputed domain name.

3)

The peculiarity of combining the word "FIERA" (fair) with the specific location "MILANO" (Milan), immediately leads the visitor to connect the domain to the specific events which take place in Milan in the areas managed by Fiera Milano S.p.A., hence erroneously identifying the erroneously with the activities organized by the Complainant.

The Respondent's bad faith is proven by the fact that the website linked to the erroneously is also available as <morellicatering.it>: this proves in the first instance and beyond doubt that the erroneously is not currently used for any direct or specific activity, but only to attract users who visit <cateringfieramilano.eu> looking for information on catering services offered by Fiera Milano S.p.A., redirecting these users to the Respondent's site, where it offers the same Complainant's catering services.

The Disputed domain name was registered and used by the Respondent in bad faith.

DECISION

For the foregoing reasons, the Panel orders that the Disputed domain name <CATERINGFIERAMILANO.EU> be transferred to the Complainant.

PANELISTS

Name	Enzo Fogliani

DATE OF PANEL DECISION 2017-10-25

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: CATERINGFIERAMILANO.EU.

II. Country of the Complainant: Italy, country of the Respondent: Italy.

III. Date of registration of the domain name: 16 May 2017.

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
- “FIERA MILANO” trademark in Italy No. 1441643 registered on 07/04/2011 for classes 16, 35, 41, 42, 43;
- “FIERA MILANO” International Trademark No. 1090544 registered on 07/04/2011 for classes 16, 35, 41, 42, 43;
- “FIERA MILANO” European Union Trademark No. 6254213 registered on 20/10/2008 for classes 16, 35, 36, 38, 41, 42, 43.

V. Response submitted: Yes

VI. Domain name is confusingly similar to the protected right/s of the Complainant

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No
2. Why: the Respondent is not affiliated with the Complainant, has no license and is not commonly known by the Disputed domain name.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: The Respondent offers the same Complainant's catering services, through the website to which the Disputed domain name refers. Registration and use in bad faith to take unfair advantage of the reputation of the Complainant's mark.

IX. Other substantial facts the Panel considers relevant: None.

X. Dispute Result: Transfer of the Disputed domain name.

XI. Procedural factors the Panel considers relevant: None

XII. Is Complainant eligible? Yes