Panel Decision for dispute CAC-ADREU-008779

Case number	CAC-ADREU-008779
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Domain names	truelinkswear.eu

Case administrator

	Olga Slanařová (Case admin)

Complainant

Organization	True Collective LLC
Organization	CityGolf.CZ - golfové obchody, s.r.o.

Complainant representative

Organization	Havlík Švorčík & Partners

Respondent

Name	Stéphane Sermadiras

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

The Panel is not aware of any legal proceedings which relate to the disputed domain name.

FACTUAL BACKGROUND

In the present case, there are two Complainants.

Complainant 1 is a company incorporated in the United States in 2010 and is among the world's leading manufacturers of golf shoes, apparel, and related equipment, marketed under the "TRUE LINKSWEAR" brand name. Its products are primarily distributed in the United States and also in Canada, Australia, New Zealand, and the United Kingdom, with plans to expand delivery to the European Union via its UK e-shop.

The TRUE LINKSWEAR brand enjoys market recognition, as evidenced by coverage in Forbes, favourable expert reviews on MyGolfSpy and GOLF, and consistently high customer ratings (4.57/5 from over 4,300 reviews). Claimant 1 operates the domain name <truelinkswear.com> and is the proprietor of EUIPO word trademark No. 9685447 "TRUE LINKSWEAR" (priority date: 26 January 2011, class 25).

Complainant 2, CityGolf.CZ – golfové obchody, s.r.o., is a company incorporated in the Czech Republic and serves as the authorised distributor and exclusive trademark licensee of Claimant 1 in the Czech Republic and Continental Europe under a formal Distribution Agreement form 20 June 2024. It operates two official City Golf retail stores located in Prague and Brno.

Pursuant to a written mandate and the Distribution Agreement, Complainant 2 is authorised to hold the domain name <truelinkswear.eu> on behalf of Claimant 1.

The disputed domain name <truelinkswear.eu> has been registered on 21 May 2018.

The Complainants request the disputed domain name <truelinkswear.eu> to be transferred to the Complainant 2 who meets the eligibility requirements under Article 3 of Regulation (EU) 2019/517 (the “Regulation”).

A. COMPLAINANT

The Complainants state that the disputed domain name <truelinkswear.eu> is identical to the TRUE LINKSWEAR trademark (EUIPO No. 9685447, priority date 26 January 2011). Since the “.eu” suffix is merely a technical element of the top-level domain and has no distinctive character, the Claimants consider that from the perspective of the average consumer, the disputed domain name is confusingly similar to the protected sign (registered EU trademark) within the meaning of paragraph B1(b)(9) of the .eu Alternative Dispute Resolution Rules (the "ADR Rules").

The Complainants further state that the Respondent has no rights or legitimate interests in the disputed domain name within the meaning of paragraph B11(d)(1)(ii) of the ADR Rules , for the following reasons:

1. No registered rights – The Respondent is not the holder of any registered trademark for “truelinkswear” or a similar sign in the EU (evidence: WIPO Madrid Monitor and TMView searches).
2. No authorisation – The Respondent has not been authorised by the Complainants to use the TRUE LINKSWEAR mark or to register the disputed domain name.
3. No business connection – The Respondent has never been associated with the Complainants business activities.
4. Misleading website content – The website truelinkswear.eu operated by the Respondent, imitates Complainant 1’s branding, uses the title “TRUE LINKSWEAR EUROPE” and gives the false impression of being an official EU e-shop, while also offering competing ASHER GOLF products and redirecting to ashergolf.eu when “gloves” is clicked (evidence submitted: website screenshots of the website truelinkswear.eu and ashergolf.eu; results of a search for the name of the Respondent in the Madrid Monitor database maintained by the World Intellectual Property Organization (WIPO) and of a search for the name of the Respondent in the database TM VIEW with no results found).
5. Failure of the Oki Data Test – The “Oki Data Test”, established in Oki Data Americas, Inc. v. ASD, Inc. (WIPO Case No. D2001-0903), shows that

Furthermore, the Complainants state that the Respondent cannot rely on the so-called “Oki Data Test” (Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No. D2001-0903) to establish rights or legitimate interests in the disputed domain name. According to this test, a reseller’s or distributor’s use of a domain name containing another party’s trademark may be considered legitimate only if all of the following conditions are met: (i) the respondent is actually offering the goods or services under the trademark; (ii) the website is used exclusively for the sale of genuine goods bearing the trademark (i.e., it is a monobrand shop); (iii) the website accurately and prominently discloses the respondent’s relationship (or lack thereof) with the trademark owner; and (iv) the use does not tarnish or otherwise adversely affect the trademark’s reputation. In the present case, the Complainants consider that these conditions are not fulfilled, as the Respondent’s website also offers competing ASHER GOLF products and fails to disclose that there is no commercial relationship with the Complainants.

Though only one of the conditions under paragraph B11(d)(1)(ii) or paragraph B11(d)(1)(iii) of the ADR Rules needs to be satisfied, the Complainants also state that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph B11(d)(1)(iii) of the ADR Rules, because:

- At the time of registration, the TRUE LINKSWEAR trademark had been valid and in use by Complainant 1 for over seven years.
- The Respondent must have been aware of Complainant 1’s prior rights and reputation.
- The Respondent’s website is deliberately designed to create a likelihood of confusion and to attract internet users for commercial gain (evidence: WHOIS extract; website screenshots).

The Complainants submit that such conduct constitutes not only trademark infringement but also an act of unfair competition under Sections 2976 and 2981 of the Czech Civil Code, and refer to the decisions of the High Court in Prague in Case No. 3 Cmo 23/2007, 3 Cmo 34/2010 and 3 Cmo 293/2003.

The Complainants therefore state that they have all three requirements of paragraphs B11(d)(1) of the ADR Rules. Pursuant to paragraph B11(b) of the ADR Rules, they request that the disputed domain name be transferred to Complainant 2.

B. RESPONDENT

The Respondent has not responded to the Complaint.

DISCUSSION AND FINDINGS

Under Article 4(4) of the Regulation and the Article B11(d)(1) of the ADR Rules, the disputed domain name is subject to revocation if it is identical or confusingly similar to a name in respect of which a right is established by the EU or national law, and where:

- It has been registered by its holder without rights or legitimate interest in the name; or

- It has been registered or is being used in bad faith.

Furthermore, Under the applicable Regulation, domain names in the .eu TLD may be allocated only to eligible parties. Pursuant to Article 3 of Regulation (EU) 2019/517, eligible parties include:

- an undertaking that is established in the Union; and

- an organization that is established in the Union, without prejudice to the application of national law.

In the present case, there are two Complainants, both legal entities: Complainant 1, a United States company, is the proprietor of an EU trademark, and Complainant 2, a company incorporated in the Czech Republic, is the exclusive licensee of that trademark for the Czech Republic and Continental Europe.

Eligibility criteria

As a preliminary matter, it is necessary to assess the eligibility criteria of the Complainants, given that only Complainant 2 meets the requirements of Regulation, while only Complainant 1 is the proprietor of the relevant EU right, namely the EU trademark.

In this regard, it should be noted that Complainant 2 is the exclusive licensee of the EU trademark. Pursuant to Section 2(2) of Czech Act No. 221/2006 Coll., on the Enforcement of Industrial Property Rights and Protection of Trade Secrets, the exclusive holder of a licence to such rights (including rights to trademarks) is entitled to enforce those rights, provided that the proprietor consents. In the present case, such consent has been duly granted by Complainant 1 base on its written consent submitted as evidence.

Accordingly, Complainant 2 has standing to act in these proceedings and, as a legal entity incorporated in the Czech Republic, meets the eligibility criteria under Article 3 of Regulation (EU) 2019/517. Furthermore, Complainant 1 has expressly authorised that the disputed domain name be transferred to Complainant 2. The preliminary issue of eligibility is therefore resolved in agreement with the petition of the Complainants.

Identical and/or Confusingly Similar

With regard to the similarity test under paragraph B11(d)(1)(i) of the ADR Rules, the Panel finds that the disputed domain name <truelinkswear.eu> is identical to the TRUE LINKSWEAR EU trademark and that the only difference being the technical ".eu" suffix, which is however irrelevant for the assessment of similarity.

Therefore, the Panel concludes that the first condition set forth under Article 4(4) of the Regulation and the Article B11(d)(1) of the ADR Rules has been fulfilled.

Rights or Legitimate Interests

While the overall burden of proof in domain names disputes is on the complainant, proving a respondent's lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative" information that is often primarily within the knowledge or control of the respondent. It is therefore generally accepted, that 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.

In this case, the Panel finds that the Respondent has neither demonstrated nor even asserted in these proceedings that it has any rights or legitimate interests in the disputed domain name. On the contrary, the evidence submitted by the Complainants confirms that the Respondent holds no exclusive rights to the name "truelinkswear" and has not been granted any authorisation by the Complainants to use the TRUE

LINKSWEAR trademark.

Consequently, and in the absence of a Response, the Panel finds that the second condition as stated in the Article B1(b)(10)(ii) of the ADR Rules has been proved.

Registration or Use in Bad Faith

The Panel finds that in this case, the need to assert that the Respondent's conduct - registration or use of the disputed domain name in bad faith under paragraph B11(d)(1)(iii) of the ADR Rules does not have to be assessed given that the Complainants have satisfied the requirements of the Articles B1(b)(10)(i) and B11(d)(1)(ii) of the ADR Rules, the Panel finds the Complaint as justified.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name truelinkswear.eu be transferred to the Complainant 2.

PANELISTS

Name	**Hana Číslerová**

DATE OF PANEL DECISION 2025-08-04

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: [truelinkswear.eu]

II. Country of the Complainant: [Complainant 1 : United States, Complainant 2: Czech Republic], country of the Respondent: [France]

III. Date of registration of the domain name: [21.05.2018]

IV. Rights relied on by the Complainant (B(11)(f) ADR Rules) on which the Panel based its decision:
1. [word] trademark registered in [EU], reg. No. [9685447], for the term [TRUE LINKSWEAR], filed on [26.01.2011], registered on [05.07.2011] in respect of goods and services in class [25]

V. Response submitted: No

VI. Domain name/s is/are identical to the protected right/s of the Complainant

VII. Rights or legitimate interests of the Respondent (B(11)(f) ADR Rules):
1. No
2. Why: No authorisation, no prior right to the name in the EU.

VIII. Bad faith of the Respondent (B(11)(e) ADR Rules):
1. N/A
2. Why: Not applicable - both requirements of the Articles B1(b)(10)(i) and B11(d)(1)(ii) of the ADR Rules have been satisfied.

IX. Other substantial facts the Panel considers relevant: N/A

X. Dispute Result: Transfer of the disputed domain name

XI.

XII. Is Complainant eligible? [Yes - Complainant 2]