

## On-line ADR Center of the Czech Arbitration Court (CAC)

**Complaint**

§ 3 UDRP Rules (Rules); §4 CAC's Supplemental Rules (Supplemental Rules)

**Case No. 000423**

Language of administrative proceeding English

**Complainant**

Organization Nike, Inc.  
 E-mail nike@nike.com  
 Physical Address / Address of the Seat One Bowerman Drive , OR 97005  
 Beaverton, Oregon  
 United States  
 Telephone 1-503-671-6453

**Authorized representative**

Organization Law of Domain Names  
 E-mail 445865@mail.muni.cz  
 Physical Address / Address of the Seat Veveří  
 Brno  
 Czech Republic  
 Telephone +420123456789

**Communication**

Communication will be directed to Authorized representative.

Form of communication

Electronic form (via the On-line Platform with notifications by e-mail)

E-mail 445865@mail.muni.cz

**Preliminary control of the Complaint**

Preliminary control of your Complaint enables you to have your Complaint preliminarily checked for administrative compliance by the CAC before the official filing of your Complaint. This can aid in your adherence to the time limits prescribed by the UDRP for the correction of administrative deficiencies in Complaints (5 days). This service may be particularly useful for parties who are not familiar with the UDRP procedure and/or parties not represented by specialized attorneys. In conducting the Preliminary Control, the CAC will check whether the Complaint complies with administrative requirements of the UDRP.

**IMPORTANT:** The CAC will only check the administrative compliance according to the checklist above. The CAC will not review the factual and legal grounds on which your Complaint is based. In addition, the CAC cannot preliminarily check whether the Whois data of the Respondent are correct or not – this will be verified with the

Registrar(s) concerned immediately after the Complaint is formally filed and if any inconsistencies are discovered in the Whois data, you will be asked to correct them.

**FEE:** The CAC will charge a fee in the amount of EUR each time your Complaint is checked for administrative Compliance. This fee will be added to the administrative fee for filing the Complaint. See the "Fees" section below.

If you wish to have your Complaint checked preliminarily for administrative compliance, please click here:

Preliminary control: no

## Respondent

Respondent type: Domain holder (Registrant)

Organization	Amnesty International
E-mail	loutocky@gmail.com
Physical Address / Address of the Seat	17-25 New Inn Yard EC2A 3EA London United Kingdom
Telephone	+420123456789

## Registrar(s) and Disputed domain name(s)

You may file a Complaint dealing with multiple disputed domain names only if the Respondent is the same for all the disputed domain names and if the same language of administrative proceeding is applicable.

You will be required to fill in the identification of the Registrar first and then you can fill in the domain name/s.

Organization	Targeted Drop Catch LLC
E-mail	UDRP@web.com
Physical Address / Address of the Seat	12808 Gran Bay Parkway, West Jacksonville FL 32258  United States
Telephone	+1.8886429675
Fax	+1.9048800350
Disputed domain name(s)	just-dont-do-it.com

## Panellists

Select the Panel type you prefer. Please note that there are higher fees for a three-member Panel than for a single-member Panel.

If you choose a three-member Panel, you will be asked to provide the names of three candidates who you would like to have serve as one of the Panellists. The CAC will attempt to appoint one Panellist from your list of candidates below.

Panel type	Single Panel
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## Fees

Fees payable for filing your Complaint and for additional services (if any) are as follows (please be aware that if

you ask for a single member panel, the Complaint filing fee below is only initial and you might be asked to provide additional fee under circumstances described in the Fee schedule):

Complaint **initial** filing fee: 800 EUR

**Total amount payable at the moment:** 800 EUR

#### Payment information

Important: any payment of fees will be considered complete as follows:

1. Payment by bank transfer: the paid amount is deposited on the CAC's account;

Pay by bank order - Payment copy

#### **Mutual Jurisdiction**

Mutual Jurisdiction: Respondent

#### **Other proceedings**

Insert any information you have regarding other legal proceedings, pending or decided, which relate to the disputed domain name.

#### **Remedies sought**

Indicate the remedies sought for each disputed domain name:

Transfer of the domain name to the Complainant Nike, Inc., eventually revocation.

#### **Factual and Legal Grounds**

##### Factual Grounds

I. Protected rights relied on by the Complainant

- a. Registered trade/service mark
  - i. Registered in several countries
  - ii. CTM
  - iii. Benelux trade mark
- b. Well-known/famous mark

II. Complainant's Rights

- a. Owner
- b. Are Complainant's rights valid in the territory where domain name holder is established?
  - i. Yes
- c. Validity of rights relied on by the Complainant
  - i. Fanciful

ADDITIONAL EXPLANATIONS:

##### Legal Grounds

I. Domain name is

- a. confusingly similar to the protected mark

The manner in which the domain name is confusingly similar to the protected mark:

- i. Optical similarity

- ii. Conceptual/intellectual similarity
- iii. Addition/elimination of letter(s)
- iv. Addition of pejorative terms

ADDITIONAL EXPLANATIONS:

II. The Respondent does not have any rights or legitimate interest in the domain name(s)

Categories of issues involved:

- a. Diversion of consumers/trade mark tarnishment

ADDITIONAL EXPLANATIONS:

III. The domain name(s) has been registered and is being used in bad faith

Categories of issues involved:

- a. Registration of a well-known/famous trade mark
- b. Constructive knowledge/prior knowledge of potential rights
- c. Other commercial gain
- d. Other IP infringement
- e. Disrupting the business of a competitor
- f. Attracting internet users for commercial gain by creating a likelihood of confusion with the Complainant

ADDITIONAL EXPLANATIONS:

**Please explain your arguments in detail below.**

Amnesty International (AI) uses a domain <just don't do it.com>. The AI uses it in the campaign against Nike company. The name of the domain highly correlates with a slogan „just do it“, used by Nike company. Nike uses it in its activities for a very long time and it is the core component of their brand. They also registered the slogan as a trademark in 1988. Basically, as it is not any generic name and it is a world known fact that this slogan belongs to the Nike company, we firmly believe that using of the “just don't do it” domain is confusingly similar for the internet users. In our opinion one of the three UDRP process conditions was clearly fulfilled. This fact is supported also by WIPO organisation opinion. WIPO says that a domain name consisting of a trademark and a negative or pejorative term (such as [trademark]sucks.com) would be considered confusingly similar. It is more than clear that this is similar situation as the one described by WIPO.

Another point we claim that AI is breaching is that they do not have a right or legitimate interest in using their domain name. UDRP paragraph 4(c)(iii) provides that a respondent may demonstrate rights or legitimate interests in a domain name by providing evidence of “legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the [complainant's] trademark or service mark.

Paragrap 2.6.3 in WIPO Overview 3.0 states: Where the domain name is not identical to the complainant's trademark, but it comprises the mark plus a derogatory term (e.g., <trademarksucks.tld>), panels tend to find that the respondent has a legitimate interest in using the trademark as part of the domain name of a criticism site if such use is prima facie noncommercial, genuinely fair, and not misleading or false. Some panels have found in such cases that a limited degree of incidental commercial activity may be permissible in certain circumstances (e.g., as “fundraising” to offset registration or hosting costs associated with the domain name and website). This Panel's view clearly states that, respondent has a legitimate interest for use of respondents trademark in their domain name if such use is prima facie genuinely fair and not misleading or false.

The responded uses his domain name to accuse claimant of using child labor and not having as quality product as claimant claims. This actions clearly aim to tarnish our trademark. With that in mind, we firmly believe that there is no way how the respondent can prove that, they have a legitimate interest in use of the domain name.

Lastly, the Complainant will argue that the Respondent has registered and is using the domain name in bad faith. The UDRP in Article 4 (b) sets out several circumstances, which if found by the Panel to be present, constitute evidence of registration and use of the domain name in bad faith.

The Complainant has it that the Respondent registered and uses the domain name primarily for the purpose of disrupting business of the Complainant, thus constituting the evidence of registering and using in bad faith under Art. 4 (b) (iii). When dealing with this circumstance, the Panel in Case No. D2000-0279, *Mission KwaSizabantu v. Benjamin Rost*, defined business as “supply of some goods or services in respect of which a reputation may be gained” and a competitor as “someone who acts in opposition to another and the context does not imply or demand any restricted meaning such as a commercial or business competitor”. It is clear from this definition that the Respondent is a competitor of the Claimant, because it acts in opposition of the Respondent, no matter the context. It is also clear that by the activity of the Respondent, the business of the Claimant is disrupted. The question in this regard whether the Respondent registered and uses the domain name PRIMARILY for such purposes, or for others. From the content of the website registered under the contested domain name the Complaint found out that the Respondent tries to discourage potential customers of the Complainant from buying the Complainant’s products by providing unsupported evidence and allegations about poor production conditions and child labor used for manufacturing of the Complainant’s products. It is therefore clear that the Respondent primarily tries to disrupt the Claimant’s business.

Secondly, the Claimant has it that the evidence of bad faith pursuant to Art. 4 (b) (iv) is present as well, because besides disrupting the Claimant’s business, the Respondent intentionally tries to attract, for commercial gain (by selling various products to fund its organization), Internet users to one’s website (Amnesty International official website), by creating a likelihood of confusion with the Complainant’s mark (about the confusing similarity see above).

The Claimant urges the Panel to take into account other factors of the case as well, as they contribute to non-existence of the Respondent’s good faith. The criticism is heavily biased, based on false accusations and lacking any evidence of the Respondent’s claims, giving the Claimant no room to protect its goodwill. Furthermore, the Respondent has several other effective methods at its disposal to lead its campaigns, the Panel should not award protection to a method using trademark infringement and very controversial domain name registration. Within the meaning of the Case No. D2008-1177, *Susan Scheff v. Psyborgue*, the Claimant does not withhold the Respondent’s right to express its views. But the choosing of the forum to express such views is limited in the sense that the right to express one’s views is not the same as the right to identify itself by another’s name when expressing those views.

To conclude, the Respondent is free to express its views, but not in a way which constitutes a trademark infringement (which will be subject to another proceeding), is primarily focused on disrupting the Complainant business (but more on providing relevant and objective information) and for commercial gain.

## **Annexes attached to the Complaint**

## Complaint Signature Page

**Case No. :** 000423

### Covenants

Complainant submits itself to the applicable Mutual Jurisdiction as specified above. The Complainant is aware that if it has chosen the Mutual Jurisdiction of the principal office of the Registrar although the domain name holder has not submitted to that jurisdiction in its Registration Agreement, the Mutual Jurisdiction of the domain name holder's address applies instead.

### Statements

COMPLAINANT AGREES THAT ITS CLAIMS AND REMEDIES CONCERNING THE REGISTRATION OF THE DOMAIN NAME, THE DISPUTE, OR THE DISPUTE'S RESOLUTION SHALL BE SOLELY AGAINST THE DOMAIN-NAME HOLDER AND WAIVES ALL SUCH CLAIMS AND REMEDIES AGAINST (A) THE DISPUTE-RESOLUTION PROVIDER AND PANELLISTS, EXCEPT IN THE CASE OF DELIBERATE WRONGDOING, (B) THE REGISTRAR, (C) THE REGISTRY ADMINISTRATOR, AND (D) THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS (ICANN), AS WELL AS THEIR DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS.

Complainant certifies that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.

List of Annexes:

On behalf of Law of Domain Names :

Petr Plodík, Jonáš Kozák, Vítěk Švejda

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Signature

By:

Date: