

## **Response:**

### **Introduction**

#### **A. Commencement of the proceeding**

On 7<sup>th</sup> of May 2024, the Respondent received a document headed "Commencement of Administrative Proceeding" through which he was notified that an administrative proceeding has commenced against him pursuant to the Uniform Dispute Resolution Policy and Rules. The Respondent was also informed that he must submit his response to the Czech Arbitration Court within 20 days of the date of commencement of the administrative proceeding and about the consequences of not filing a response within the stated period.

The Respondent acquainted himself with the contents of the Complaint and arguments presented by the Complainant, however, he did not find any grounds for upholding the Complaint for the reasons set hereby.

#### **B. Introduction to Amnesty International**

Amnesty International is a global movement, independent of any political ideology, economic interest or religion, that is committed to creating a world where human rights are enjoyed by everyone. To achieve this vision, they undertake research and action focused on preventing and ending grave abuses of these rights. And they are known to draw attention to human rights abuses and campaigns for compliance with international laws and standards. They often work to mobilize public opinion to generate pressure on governments or other subjects where abuse takes place.

The organisation is also very transparent about how their activities are funded. The vast majority of the income comes from small donations from private individuals. These donations make about 70 % of income. The other 30 % comes from legacies and bequests, grants from trusts and foundations, major donors and only under 7 % is from selling merchandise to support individual campaigns.

#### **C. Content of the website under the domain "just-dont-do-it.com"**

One of Amnesty International's main activities is the protection of children's rights, including protection of their economic and social rights. Through detailed research and determined campaigning, they successfully help fight abuses of human rights not only of disadvantaged children.

As part of the campaign against misuse of child labour Amnesty International registered a domain name "just-dont-do-it.com". On the website available under the relevant domain name, they inform about the Complainant's practises, as he knowingly uses suppliers from Asian countries who exploit child labour. All claims published on the website are verified and supported by the attached photos and videos.

#### **Summary of the Complaint**

The Complainant seeks the disputed domain "just-dont-do-it.com", to be transferred to the Complainant. Alternatively, if there are no grounds for the transfer, he seeks the disputed domain to be cancelled. The sought remedies are presented on the grounds that the registered domain "just-dont-do-it.com" is infringing his registered trademark, that the domain name is confusingly similar to the trademark, there is conceptual or intellectual similarity, it includes an addition of pejorative terms or other neutral terms and in addition the Respondent does not have any rights or legitimate interest in the domain name, uses the domain name in bad faith and disrupts the bussiness of the Complainant as his competitor.

The Respondent disagrees with the arguments stated above, as set out in the Complaint, for the reasons set out below.

***“The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights”***

***(Uniform Domain Name Dispute Resolution Policy, Paragraph 4(a)(i); Rules for Uniform Domain Name Dispute Resolution Policy, Paragraphs 3(b)(viii), (b)(ix)(1))***

In considering the issue of similarity, the Respondent agrees with the Complainant that the domain name is similar to the Complainant's slogan. The only change is the addition of the word "don't" to the slogan. The Respondent has no objection to the similarity as it was their intention to achieve it. Furthermore, it was a deliberate choice to attract consumers and inform them about unethical manufacturing practices, as the website is dedicated only to the complainant.

***“The Respondent has no rights or legitimate interests in respect of the domain name(s)”***

***(Uniform Domain Name Dispute Resolution Policy, Paragraph 4(a)(ii); Rules for Uniform Domain Name Dispute Resolution Policy, Paragraph 3(b)(ix)(2))***

Necessary to prove that we are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. (Paragraph 5 (iii))

The respondent further informs that under Paragraph 4(c) (he will demonstrate his rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii).

The advance provision state that the respondent has three possible outputs of how the legitimate interest can be proven.

(i) before any notice to you of the dispute, your use of, or 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) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

(i)

The factual circumstances show that the respondent operated a website under the domain name solely to inform customers about unethical practices, specifically child labor, in the complainant's factories. The respondent, as previously mentioned, is a global movement dedicated to spreading awareness about human rights abuses. While the respondent did offer products on the website, these products were not similar to those of the complainant and were not the primary focus of the website. Additionally, customers were informed by a disclaimer upon entering the website. The disclaimer stated: “The products offered on this website are not affiliated with, endorsed by, or manufactured by Nike. This website is operated by Amnesty International and is dedicated to raising awareness about child labor practices.”

Given the above, it is clear that the respondent was bona fide in offering goods. The complainant also alleged that the respondent used "Nike's trademarked slogan 'Just Do It'" within the domain name to disseminate a defamatory campaign targeting Nike's reputation. The respondent asserts that it is not possible to disseminate a defamatory campaign if the information presented is true.

(ii)

Amnesty International has never been commonly known by the domain name "just do not do it." This domain name was specifically chosen for its campaign to raise awareness about child labor practices in Nike's factories, not as a name commonly associated with Amnesty International itself.

(iii)

To establish that Amnesty International is making a legitimate noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or tarnish the trademark, the following argument can be made:

Amnesty International's use of the domain name "just do not do it" is firmly rooted in legitimate noncommercial and fair use principles. The primary purpose of the website is to inform the public about unethical practices, specifically child labor, in Nike's factories. The content is dedicated to raising awareness and advocating for human rights, aligning with Amnesty International's mission as a global movement for human rights.

Importantly, Amnesty International is not engaged in selling products for profit. The items available on the website are part of a reward-based crowdfunding effort. This means that these items are provided as tokens of appreciation for donations made to support Amnesty International's advocacy work. For example, a donor who contributes 100 euros may receive a t-shirt worth only 10 euros as a gesture of gratitude. This structure clearly indicates that the intent is not commercial gain but rather to support the organization's non-profit activities.

***"The domain name(s) was/were registered and is/are being used in bad faith."***

***(Uniform Domain Name Dispute Resolution Policy, Paragraph 4(a)(iii), 4(b); Rules for Uniform Domain Name Dispute Resolution Policy, Paragraph 3(b)(ix)(3))***

Paragraph 4(b) of the UDRP Policy sets out the following examples of circumstances that will be considered by an Administrative Panel to be evidence of the bad faith registration and use of a domain name:

(i) Circumstances indicating that the domain name was registered or acquired 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 the domain name registrant's out-of-pocket costs directly related to the domain name; or

(ii) The domain name was registered in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the domain name registrant has engaged in a pattern of such conduct; or

(iii) The domain name was registered primarily for the purpose of disrupting the business of a competitor; or

(iv) By using the domain name, the domain name registrant intentionally attempted to attract for financial gain, Internet users to the registrant's 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 registrant's website or location or of a product or service on the registrant's website or location.

The registrant is convinced that the circumstances of the bad faith registration and use of a domain name are not fulfilled and do not provide any evidence of such for following reasons:

- 1) The registrant did not register the domain name for the purpose of selling or otherwise transferring the domain name to the complainant or to complainant's competition for valuable consideration, and there is no indication of any intentions to do so. The intentions of registrant and the purpose of registering said domain name have been stated above.
- 2) The intentions of registrant and the purpose of registering said domain name have been stated on the website since the beginning. There was no intention of the registrant to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, as there are not any reasonable expectations of the complainant using the corresponding domain name as the complainant holds no trademark over the phrase "just don't do it" which bears the absolute opposite meaning of the complainant's trademark slogan "just do it."
- 3) The domain name was not registered for the purpose of disrupting the business of a competitor, because the registrant and complainant are not in the position of competitors.
- 4) The prime purpose of the registered domain is not economical and does not aim to cause financial or other harm to the complainant by creation a likelihood of confusion or by any other mean, but to bring awareness and verified information about the Complainant's practises.

Moreover, the respondent considers that, in the present case, his right to freedom of expression, which he exercises through the domain, outweighs any right of complainant. Since the respondent does not use the exact wording of the trademark of complainant to exercise his right to freedom of expression, no bad faith can be inferred in this case (see also *Hunton & Williams v. American Distribution Systems, Inc. et al.*, Case No. D2000-0501).

The Panel has also previously remarked that a legitimate interest and bad faith factors should adequately insulate true protest sites from vulnerability under the Policy (see also *Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, Case No. D2000-0662 and *Britannia Building Society v. Britannia Fraud Prevention*, Case No. D2001-0505). The Complainant considers that its site is a genuine protest site within the meaning protected by the above-mentioned decisions and, therefore, those decisions should also be taken into account in this case and the decision should be made in accordance with them.

For these reasons the respondent is convinced there is no reason to conclude bad faith in the act of registration or use of the concerned domain name.

***Conclusion***

The respondent is convinced there are no grounds for cancellation or transfer.

The Respondent has no objection to the existence of similarity between the domain name and the complainant's trademark as it was their intention to achieve it.

However other complainant's claims were disproved as the legitimate interest of the domain name was proven and there was no reason found to conclude bad faith.

Furthermore, the respondent is convinced that cancellation or transfer of the domain name under these circumstances would cause violation of his fundamental right to free speech.

The respondent thus requests dismissal of the complaint.