

## Complaint

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

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



### Complainant

ORGANIZATION Nike Retail BV

E-MAIL pf@muni.cz

TELEPHONE

FAX

#### Address of the seat/residence

ADDRESS Colosseum 1

CITY Hilversum

ZIP / POSTAL CODE 1213 NL

COUNTRY Netherlands

### Respondent

ORGANIZATION Amnesty International, London, United Kingdom

E-MAIL pf@muni.cz

TELEPHONE

FAX

#### Address of the seat/residence

ADDRESS Easton Street 1

CITY London

ZIP / POSTAL CODE WC1X 0DW

COUNTRY United Kingdom

#### Domain names

DOMAIN NAME just-dont-do-it.com

REGISTRAR NAME GoDaddy.com, LLC

NAME Domain Disputes

REGISTRAR URL [www.godaddy.com](http://www.godaddy.com)

E-MAIL [udrpdisputes@godaddy.com](mailto:udrpdisputes@godaddy.com)

ADDRESS

COUNTRY

PHONES +1 4805058800, +1

## Communication

COMMUNICATION WILL BE DIRECTED TO **Complainant**

FORM OF COMMUNICATION **E-mail**

E-MAIL **pf@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.



If you wish to have your Complaint checked preliminarily for administrative compliance, please check here.

no

## Panellists

PANEL TYPE **Three-Member Panel**

Please provide the names of three candidates:

CANDIDATE 1 **Federica Togo**

CANDIDATE 2 **Andrew Lothian**

CANDIDATE 3 **Barbora Donathová**

## Fees

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

Complaint filing fee: 2600 EUR

Total amount payable at the moment: 0 EUR

## Payment information

PAYMENT TYPE Bank transfer

PAYMENT COPY

## Mutual Jurisdiction

Mutual Jurisdiction is at least one court jurisdiction to which any Complainant has to submit himself in his Complaint with respect to any challenges to a decision in a UDRP proceeding; according to the UDRP Rules, the Complainant must submit to:

- The principal office of the Registrar (provided the domain name holder has submitted to that jurisdiction for court adjudication of disputes concerning or arising from the use of the domain name in its Registration Agreement); or

## Other proceedings

OTHER PROCEEDINGS

## Remedies sought

REMEDIES SOUGHT In accordance with Paragraph 4(i) of the Policy, for the reasons described in Section VI. above, the Complainant requests the Administrative Panel appointed in this administrative proceeding that the disputed domain, "*just-dont-do-it.com*", be transferred to the Complainant, Nike Inc.

If the Administrative Panel finds no grounds for the disputed domain, "*just-dont-do-it.com*" to be transferred to the Complainant, the Complainant requests the disputed domain, "*just-dont-do-it.com*" be canceled.

## Factual and Legal Grounds

### Factual Grounds

- I. Protected rights relied on by the Complainant
  - a. Registered trade/service mark
    - iii. Registered in several countries
  - b. Well-known/famous mark

## II. Complainant's Rights

- a. Owner
- e. Are Complainant's rights valid in the territory where domain name holder is established?
  - i. Yes
- f. Validity of rights relied on by the Complainant
  - iv. Suggestive

## Legal Grounds

### I. Domain name is

- b. confusingly similar to the protected mark
  - iv. Conceptual/intellectual similarity
  - ix. Addition of pejorative terms
  - x. Addition of neutral/innominate terms

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

- g. Diversion of consumers/trade mark tarnishment

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

- a. Cumulative requirement
  - iii. Registration in bad faith, use in bad faith
- b. Meaning of registration
  - v. Other
- c. Registration of a well-known/famous trade mark
- o. Speculation in domain names
- z. Other IP infringement
- ac. Disrupting the business of a competitor
- ad. Attracting internet users for commercial gain by creating a likelihood of confusion with the Complainant

## Please explain your arguments in detail below.

### FACTUAL AND LEGAL GROUNDS

Nike Inc., a globally renowned corporation primarily engaged in the production of footwear and athletic apparel, has established itself as a leader in the industry through the dissemination of superior quality merchandise and the development of iconic marketing campaigns, notably featuring the slogan "*Just Do It*," which has achieved widespread recognition on a global scale. The phrase "*Just Do It*," prominently featured as a slogan of Nike, constitutes an integral component of the company's identity and serves as a registered trademark.

Amnesty International has undertaken actions aimed at disparaging Nike's esteemed reputation through the creation and utilization of the domain name "*just-dont-do-it.com*." The aforementioned domain name, as it's seen at first glance, is highly similar in sound, appearance, and overall impression to Nike's trademarked campaign slogan "*Just Do It*," thereby creating confusion among consumers and potentially diminishing the distinctiveness of Nike's brand.

Amnesty International has neither obtained authorization nor demonstrated legitimate justification for appropriating Nike's trademark within the domain name in question prior to the commencement of their campaign. The sole objective of Amnesty International's campaign appears to be defamatory in nature, constituting bad faith registration, with the clear intent to capitalize on the goodwill associated with Nike's trademark and thereby tarnish the esteemed reputation of the company.

The domain name "*just-dont-do-it.com*" represents an active source of harm directed towards Nike, as Amnesty International's unauthorized utilization of Nike's trademark within said domain name has

precipitated deleterious consequences for the company. Since the release of Amnesty International's campaign, Nike has noted a significant downturn in sales figures and an uptick in customer grievances, including requests for product refunds, directly attributable to the disparaging content disseminated through the aforementioned domain.

This Complaint is based on the following grounds:

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

(Policy, Paragraph 4(a)(i); Rules, Paragraphs 3(b)(viii), (b)(ix)(1))

As previously stated, Nike Inc., the complainant, is a globally renowned corporation primarily engaged in the production of footwear and athletic apparel. While establishing the company as one of the leaders in the aforementioned industry, Nike Inc. has also invested heavily into its marketing and therefore also in devising a marketing slogan. After a long time of considering all the alternatives, Nike Inc. has established one of today's most famous slogans - *Just do it* - which Nike Inc. has also conscientiously legally registered as a trademark (registration number 4902036, an extract from the trademark register is attached as an Annex 2)

The complainant is of the opinion that the domain name, which Amnesty International has registered, "*just-dont-do-it.com*", is a priori predestined to meet the criteria to be characterized as "confusingly similar" to Nike's trademark, since the only condition for it being the case is the need of Nike's trademark, "*Just do it*" to be generally recognizable within the parasitizing domain's name.

This criterion must be assessed through the lens of the average internet user and therefore the complainant is convinced that not only the average internet user, but every internet user, would be able to recognize the trademarked slogan "*Just do it*" in the almost indistinguishable domain name "*just-dont-do-it.com*", while the only distinguishing feature being a simple dictionary word "don't".

For the average customer and the average internet user, who undoubtedly associates the world-famous "*Just do it*" slogan with Nike Inc., it is practically impossible to not associate also this nearly indistinguishable domain name "*just-dont-do-it.com*" with Nike Inc. as well. One of the first things that could come to mind of the average customer or the average internet user, in the globalized world filled with ads and marketing we live in, when he or she sees the domain name "*just-dont-do-it*" for the first time, surely has to be an idea that Nike Inc. has probably launched some kind of special advertising of, for example, footwear and clothing for non-athletes. Furthermore, Nike Inc. has been using the slogan in almost every campaign in the last decades, therefore the before stated average internet user is all the more likely to conclude that the "*just-dont-do-it*" slogan and website is just another creative way Nike Inc. is using its trademarked and world-known slogan it has been using for years. The idea that a third person is parasitizing on the mentioned trademark surely is not something an average user would keep in mind while effortlessly browsing the internet or purchasing something so mundane as clothes.

The characterization of the domain name "*just-dont-do-it*" as confusingly similar to the trademarked slogan "*Just do it*" is all the more necessary due to the fact that Amnesty International itself is consistently and over the long term selling clothing items, for example, T-shirts, using the so-many-times-mentioned parasitizing domain "*just-dont-do-it*", therefore establishing a competitive relationship between itself and Nike Inc. Less attentive internet user is therefore even more likely to confuse the complainant and respondent, which would be hardly surprising, because if the mentioned internet user is looking for Nike Inc.'s products, then somehow stumbles upon the respondent's parasitizing website, which is conveniently also selling clothing items, the altered trademark "*just-dont-do-it*" could as well be preserved as a lightened and somewhat funny alternative marketing campaign by Nike Inc., as it is presented above.

The complainant is of the opinion the "*just-dont-do-it.com*" domain which was, with the clearly parasitizing intention, claimed by respondent, should be proclaimed confusingly similar to the claimant's before mentioned trademark due to the fact that the hidden message "*just-DONT-do-it.com*" domain name is sending. It is now a standard procedure for the UDPR to mark a domain consisting of a trademark and a negative term as confusingly similar domain name, therefore usually an illegal domain name as well. Complainant, again, emphasizes that the *Just do it* trademarked slogan is undoubtedly known truly all around the globe. It has become a motivational quote for a number of athletes and it keeps many people from not giving up on whatever their dreams are, while all of these people are aware

of the unquestionable link between the slogan and Nike Inc. If the respondent is now using a domain name "*just-DONT-do-it.com*", he is simultaneously defaming the slogan, and therefore the claimant as well, in the same manner, if he used a domain name, for example, "*just-do-it-sucks*". The respondent is therefore using a domain name consisting of a trademark plus a negative term (the word don't is the definition of negation), which is why this case, or at least the condition of confusing similarity, should be decided on the same way the paragraph 1.3. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition, or many previously decided cases, for example *Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#), <wal-martsucks.com>.

From the above it follows that Amnesty International's domain name "*just-dont-do-it.com*" has to be cleared of being confusingly similar to Nike's trademarked slogan "Just do it" in the sense of Rules, Paragraph 3(b)(ix)(1).

**1. The Respondent has no rights or legitimate interests in respect of the domain name(s);**

(Policy, Paragraph 4(a)(ii); Rules, Paragraph 3(b)(ix)(2))

As previously stated, it is evident that the Respondent lacks any rights or legitimate interests with respect to the domain name "*just-dont-do-it.com*." Attention should be directed to relevant aspects of the Policy, Paragraph 4(c), particularly the absence of evidence indicating a bona fide offering of goods or services by the Respondent prior to the dispute. Before receiving any notice of the dispute, there exists no demonstrable evidence suggesting that Amnesty International utilized the domain name "*just-dont-do-it.com*" in connection with a bona fide offering of goods or services. Instead, Amnesty International deliberately appropriated Nike's trademarked slogan "*Just Do It*" within the domain name to serve as a platform for the dissemination of a defamatory campaign targeting Nike's reputation.

Furthermore, there is no evidence to suggest that Amnesty International has ever been commonly known by the domain name "*just-dont-do-it.com*" or any variation thereof. While Amnesty International is a well-established organization recognized for its advocacy efforts in the realm of human rights, there is no indication that they have ever utilized the domain name in question as a means of identifying itself or conducting activities under a corresponding identity. The absence of any common usage or association between Amnesty International and the domain name "*just-dont-do-it.com*" underscores the lack of any legitimate connection between the Respondent and the disputed domain name.

Contrary to any assertion of non-commercial or fair use, the Respondent, Amnesty International, is actively engaged in commercial activities on the website associated with the domain name "*just-dont-do-it.com*." Specifically, Amnesty International operates an e-commerce platform offering merchandise such as mugs, T-shirts, and umbrellas featuring anti-child labor motifs, with the proceeds purportedly intended to finance their advocacy campaigns. While the stated purpose may be ostensibly non-commercial in nature, the actual sale of goods for profit constitutes a commercial endeavor. Therefore, Amnesty International's activities on the website cannot be construed as legitimate non-commercial use.

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

(Policy, paragraphs 4(a)(iii), 4(b); Rules, paragraph 3(b)(ix)(3))

Under the Uniform Domain-Name Dispute-Resolution Policy (the "Policy"), Paragraph 4(a)(iii), and the corresponding WIPO Rules, Paragraph 3(b)(ix)(3), the domain name "*just-dont-do-it.com*" should be deemed to have been registered and used in bad faith by the Respondent, Amnesty International. Attention should be directed to relevant aspects of the Policy, Paragraph 4(b), particularly the following considerations:

Amnesty International's registration and use of the domain name "*just-dont-do-it.com*" are indicative of a deliberate attempt to disrupt the business operations of Nike, a direct competitor. By intentionally appropriating Nike's trademarked slogan "*Just Do It*" within the domain name, Amnesty International

seeks to undermine Nike's brand reputation and diminish its commercial success. This malicious intent to impair the legitimate interests of a competitor constitutes clear evidence of bad faith registration and use.

Furthermore, Amnesty International's utilization of the domain name "*just-dont-do-it.com*" is characterized by a calculated effort to attract Internet users for commercial gain by exploiting confusion with Nike's trademark. By employing a domain name strikingly similar to Nike's recognized slogan, Amnesty International creates a likelihood of confusion among consumers regarding the source, sponsorship, affiliation, or endorsement of their website and products. This intentional strategy to profit from the association with Nike's brand, evidenced by the sale of merchandise featuring motifs similar to Nike's trademarked slogan, demonstrates a clear pattern of bad faith registration and use.

In light of these considerations, it is evident that Amnesty International's registration and use of the domain name "*just-dont-do-it.com*" constitute a blatant violation of the Policy and are indicative of bad faith practices aimed at undermining Nike's business interests and capitalizing on the confusion of consumers for commercial gain.

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## Complaint Signature Page

Case No. : CAC-UDRP-106325

### 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.

COMPLAINT SIGNER Nike

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