Decision for dispute CAC-UDRP-100195

Case number	CAC-UDRP-100195
Time of filing	2010-09-08 10:00:00
Domain names	a2a-tranding.com, a2a-trading.com

Case administrator

Name	Tereza Bartošková (Case admin)

Complainant

Organization	A2A S.p.A.

Complainant representative

Organization	PORTA, CHECCACCI & ASSOCIATI S.p.A.

Respondent

Name	Maurice Nathan

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

Complainant holds a substantial number of trademarks and trade names, including the company name, with the keywords “A2A": CTM trademark Regn. No. 006831788, filed on 15 April 2008, granted on 10.06.2009. CTM trademark Regn. No. 006830426, filed on 14 April 2008, granted on 18/09/2009.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

A2A is the Complainant’s corporate name and trade name, under which it has been running its business for many years. The Complainant holds several domain names and a substantial number of trademarks including the company name, among others (listed below) with keywords “A2A": CTM trademark Regn. No. 006831788, filed on 15 April 2008, granted on 10.06.2009. CTM trademark Regn. No. 006830426, filed on 14 April2008, granted on 18/09/2009. Domain names www.A2A.eu - Registrant A2A spa, created on April 7, 2006. www.A2Atrading.eu - Registrant A2A spa, created on November 14, 2007.

The domain name’s A2A-trading.com and A2A-tranding.com object of the present claim were registered respectively on April

16, 2010 and April 15, 2010 by Mr. Maurice Nathan. According to Complainant the disputed domain constitutes usurpation and violation of the rights of the Complainant A2A S.p.A. with regard to its company name, its trademarks registered in Italy and in EU and its domain names.

The disputed A2A-trading.com and A2A-tranding.com domain names wholly incorporate the trademarks, domain names and the corporate names that the Complainant claims. The contested domains are identical/similar to the prior trademarks and/or domains and/or distinctive rights of A2A spa, consisting and/or containing the wording “A2A”, as above indicated.
The domain A2A-trading.com and A2A-tranding.com are even identical to the previous A2A’s trademarks and/or domains with wording “A2A”, among others the domain name A2A.EU and A2Atrading.EU.
The identity and/or similarity of the contested domain names compared to the A2A’s trademarks are so close that it can cause a likelihood of confusion and association for the public.

A2A Spa is a well-known name worldwide and the Complainant obtained rights in the name prior to the Respondent’s registration of the domain names. Respondent made no use of the domain name in question and there were no other indications that the respondent could have registered and used the domain name in question for any non-infringing purpose. Such use of the domain name does not constitute a bona fide offering of goods or services. According to Complainant Respondent has no rights or legitimate interest in the domain name in connection with a bona fide offering of goods or services.

The Complaint asserts that the respondent amounts to passing off and creates confusion over the source, sponsorship or affiliation with the A2A’s trademarks. Given the worldwide renown of the A2A trademarks there is no plausible scenario whereby the respondent could have registered the Disputed Domain Names without being aware of the A2As and its famous trademarks A2A and the related domains.
The Disputed Domain Names A2A-trading.com and A2A-tranding.com were, therefore, registered and used in bad faith.
It may be reasonably be maintained that in the case at issue such graphical/phonetical similarity between the signs can engender risk of confusion between the signs. The respondent would wrongfully benefit by the distinctiveness, fame and commercial goodwill obtained during all these years by the large use of the sign A2A of A2A Group.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or confusingly similar to a trademark or service mark in which the complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

In the opinion of the Panel Complainant has made a prima facie case that the respondent lacks rights or legitimate interest

in the domain name. This is particularly true as Respondent is not making a legitimate noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the famous mark of Complainant. Respondent was not commonly known by the domain name nor has it acquired trademark rights. Under these circumstances the Panel finds that Respondent has no rights or legitimate interest in the domain name.

The Panel also finds that Respondent has been registered and is being used in bad faith. This is particularly true as Respondent intentionally could attempt to attract, for commercial gain, Internet users to a website by creating a likelihood of confusion with the mark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or of a product on its website or location. In addition, the a2A-tranding.com domain name is linked to the godaddy.com parking webste and is obviously for sale. The Panel finally notes that Respondent has been linked to engage in a pattern of conduct registering domain names, including domain names registered and used in bad faith; see WGL AG v. Maurice Nathan, WIPO Case No. D2010-1012.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **A2A-TRANDING.COM**: Transferred
2. **A2A-TRADING.COM**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2010-10-06

Publish the Decision