Decision for dispute CAC-UDRP-101232

Case number	CAC-UDRP-101232
Time of filing	2016-06-14 10:43:42
Domain names	ADVENT-INTERNATIONAL.ORG

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Advent International Corporation

Complainant representative

Organization	FASANO-Avvocati

Respondent

Name	David E. Clark

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of numerous trademark registrations comprising ADVENT INTERNATIONAL, including the United States trademark No. 3859020 for ADVENT INTERNATIONAL (word mark), filed on August 17, 2009 and registered on October 12, 2010, in International classes 35 and 36; the United States trademark No. 3859062 for ADVENT INTERNATIONAL GLOBAL PRIVATE EQUITY (figurative mark), filed on August 26, 2009 and registered on October 12, 2010, in International classes 35 and 36; the European Union trademark No. 8511685 for ADVENT INTERNATIONAL (word mark), filed on August 26, 2009 and registered on February 24, 2010, in International classes 35, 36 and 42; and the European Union trademark No. 008694531 for ADVENT INTERNATIONAL GLOBAL PRIVATE EQUITY (figurative mark), filed on November 18, 2009 and registered on June 7, 2010, in International classes 35, 36 and 42.

The Complainant operates under the trade name Advent International, which has been in use since September 17, 1984. In addition, the Complainant is the owner of the domain name <adventinternational.com>, registered on September 18, 1996.

FACTUAL BACKGROUND

The Complainant was founded in 1984 and is one of the largest global private equity investors, having invested $30 billion in

more than 300 private equity transactions in 40 countries. As of December 31, 2015, it had $29 billion in assets under management. The Complainant has offices in four continents and has established a globally integrated team of over 170 investment professionals across North America, Europe, Latin America and Asia. The Complainant focuses on investments in five core sectors: business and financial services; healthcare; industrial; retail, consumer and leisure; and technology, media and telecommunications.

The disputed domain name <advent-international.org> was registered on August 21, 2015 and is pointed to a web site reproducing the contents of the Complainant's web site "www.adventinternational.com".

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT

The Complainant states that it has invested substantial amounts to develop goodwill in its trade name and trademarks to cause consumers throughout the world to recognize its marks as distinctly designating products and services that originate from the Complainant.

The Complainant contends that the disputed domain name is identical or confusingly similar to Complainant's trademarks, because it wholly incorporates the dominant part of such marks, namely the wording "advent international", with the mere addition of a hyphen and the gTLD .org, which are not sufficient to negate the confusingly similarity. The Complainant further states that the disputed domain names can also be confused with the Complainant's trade name and its domain name <adventinternational.com>.

With reference to the Respondent's lack of rights or legitimate interest, the Complainant states that:

- The Respondent has never received any approval, expressed or implied, to use the Complainant's marks in, or as part of, any domain name, and that the Complainant has no association, affiliation and/or dealings of any nature whatsoever with the Respondent and neither endorses nor promotes its services;

- The disputed domain name resolves to a website which is a copy of the entire contents of the principal website of the Complainant, hence there is no evidence that the Respondent has used or has been preparing to use the disputed domain name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use, without intent for commercial gain to misleadingly divert consumers or to tarnish Complainant's marks;

- There is no evidence that the Respondent has been commonly known by the disputed domain name.

As to the bad faith requirement, the Complainant contends that the disputed domain name has been registered and is being used in bad faith since:

- The registration of the disputed domain name, which comprises the dominant component of Complainant's well-known marks, evidences a clear intent to trade upon the reputation and good will associated with Complainant's marks;

- In light of the pointing of the disputed domain name to a website which is a copy of the entire contents of the principal website of the Complainant, it is unlikely that the registration of the disputed domain name may be attributed to mere chance and not to a registration made with full awareness of the Complainant's rights and with the intent to exploit the reputation of the Complainant and the related marks;

- According to paragraph 2, letters b) c) and d) of the UDRP Policy, the Respondent warranted that the registration of the disputed domain name would not infringe upon or otherwise violate the rights of any third party. However, by registering the disputed domain name incorporating the Complainant's well-known mark or by failing to check whether the registration would have infringed on the right of a third party, the Respondent violated the mentioned provisions;

- It is more than likely that the registration of the disputed domain name has been carried out by the Respondent with the sole purpose to attract, for commercial gain, Internet users to its web site by creating a likelihood of confusion with the Complainant's marks or to exploit in any other way the Complainant's reputation and good will.

RESPONDENT

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed 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 disputed 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 disputed 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

1. The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark ADVENT INTERNATIONAL as it includes the trademark in its entirety, with the mere addition of a hyphen and of the Top-Level domain ".org" which, as stated in a number of prior decisions rendered under the UDRP, is not sufficient to exclude the likelihood of confusion.

2. The Complainant stated that the Respondent is not affiliated with or authorized by the Complainant in any way. There is no evidence of the fact that the Respondent might have been commonly known by the disputed domain name or by a name corresponding to the disputed domain name. According to the evidence on records, the Respondent has redirected the disputed domain name to a web site which reproduces the contents of the Complainant's web site "www.adventinternational.com". Therefore, the Panel finds that the Respondent has not made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services or any other legitimate use for non-commercial activities. On the contrary, it appears that the Respondent used the disputed domain name to misdirect consumers into believing that they were visiting a web site owned by or associated with the Complainant. Based on the evidence on records and considering that the Respondent has not submitted a Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the confusing similarity of the disputed domain name with the Complainant's trademark ADVENT INTERNATIONAL and in view of the contents of the Respondent's web site, which entirely reproduces the web site of the Complainant and the related trademarks, the Respondent was clearly aware of the Complainant's rights and activity. The Panel finds paragraph 4(b)(iv) of the Policy to be applicable in this case since it is clear that the Respondent intentionally attempted to attract Internet users to its web site for commercial gain, by causing a likelihood of confusion with the trademark ADVENT INTERNATIONAL as to the source, sponsorship, affiliation or endorsement of the Respondent's web site and services. Therefore, the Panel concludes that the Respondent has registered

and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ADVENT-INTERNATIONAL.ORG**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2016-08-17

Publish the Decision