Decision for dispute CAC-UDRP-101303

Case number	CAC-UDRP-101303
Time of filing	2016-09-30 14:06:27
Domain names	teamliquid.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Liquid Enterprises B.V.

Respondent

Organization	Team Liquid CA

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 <teamliquid.com>.

IDENTIFICATION OF RIGHTS

The Complainant is owner of the European Union trademark <TEAM LIQUID> with the registration no. 014772446, registered on 15 September 2016 in the classes 35, 38, 41, 42 and 45.

The Complainant is also the holder of the actively used domain names <teamliquid.net>, created on 24 September 2002, and <teamliquidpro.com>, created on 25 September 2010.

FACTUAL BACKGROUND

In 2002, the domain name <teamliquidt.net> was registered and was known primarily as a popular StarCraft gaming news site. Meanwhile, "TEAM LIQUID" has grown into a professional eSports team that now has over 50 contracted players spanning 10 different gaming titles. The "TEAM LIQUID" brand is used across the websites <teamliquid.net> and <teamliquidpro.com> as well as in multiple competitive eSports leagues, some of which are shown on TV. "TEAM LIQUID" is one of the iconic brands in the eSports industry, as the "TTEAM LIQUID" has won titles in virtually every major game.

The disputed domain name <teamliquid.com> was created on 10 July 2004, i.e. approximately 2 years after the Complainants' domain <teamliquid.net>, by a "Team Liquid CA" organization. The status and nature of the Respondent is unknown, because no evidence could be found that the "Team Liquid CA" is a real organization.

The disputed domain name <teamliquid.com> is in passive holding (parking page) since its registration. It is used to display advertisements related to the game "StarCraft", other eSports games and the content of the Complainants' website. The disputed domain name <teamliquid.com> is also used to distribute malicious software (malware).

The disputed domain name <teamliquid.com> is listed for sale on the Sedo domain name marketplace since 2015. The

Complainant initiated a bidding procedure and tried unsuccessfully to purchase the disputed domain name <teamliquid.com> from the Respondent.

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 the trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy), namely the registered European Union trademark <TEAM LIQUID> as it is well established that the specific Top-Level of a domain name - in this case (dot)com - does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.

The registration of the disputed domain name before the Complainant acquired its trademark rights in the name “TEAM LIQUID” does not prevent a finding of identity or confusing similarity under the UDRP. Accordingly, the Complainant has established the first element of paragraph 4(a) of the Policy.

Furthermore, the Complainant provides evidence that the term "TEAM LIQUID" has become a distinctive identifier associated with the Complainant and its services and goods. Therefore, the Panel finds the Complainant has also common law rights in "TEAM LIQUID".

NO RIGHTS OR LEGITIMATE INTERESTS

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

The disputed domain name is in passive holding (parking page) since its registration; it is used to display advertisement for eSports. Moreover, the disputed domain name is used to distribute malicious software (malware).

The Respondent has not used or made demonstrable preparations to use the disputed domain name for a bona fide offering of goods or services. Nor has the Respondent made any legitimate non-commercial or fair use of it. The use of a domain name to post parking pages or mere pay-per-click links does not of itself confer rights or legitimate interests, especially if links lead to websites of Complainant’s competitors. Furthermore, the Respondent is not affiliated with the Complainant nor authorized by the Complainant to use the Complainant’s right in "TEAM LIQUID". There is no basis on which the Respondent could claim a right or legitimate interest in the disputed domain name.

Accordingly, the Complainant has established the second element of paragraph 4(a) 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).

The disputed domain name was registered and is being used in bad faith, although the trademark "TEAM LIQUID" was registered after registration of the disputed domain name, but later, after the term "TEAM LIQUID" had become a distinctive identifier associated with the Complainant and its services and goods, i.e. after the Complainant gained common law rights in "TEAM LIQUID" and after the "TEAM LIQUID" has grown into a well known professional eSports team. It is therefore very likely that the Respondent was aware of the Complainant and intended to capitalize the success of the Complainant eSports team. By offering advertisements for professional gaming content – especially “StarCraft” – the Respondent has intentionally attempted to attract, for commercial gain, internet users to the disputed domain name by creating a likelihood of confusion with the Complainant’s rights in "TEAM LIQUID".

The offer to sell the disputed domain name is not a proof of bad faith, as the Complainant contends. In particular, because

the Respondent did not offer the disputed domain name immediately after the registration.

Nevertheless the use of the fictitious name “Team Liquid CA” for the registration of the disputed domain name is a strong evidence of bad faith and also constitutes evidence that the Respondent wants to create a false impression that he is affiliated with the Complainant and wants to profit from the success of the eSports team of the Complainant.

Accordingly, the Complainant has established the third element of paragraph 4(a) 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

The Panel finds that the disputed domain name <teamliquid.com> is identical to the <TEAM LIQUID> trademark of the Complainant and constitutes a violation of the common law rights of the Complainant in <TEAM LIQUID>.

The Respondent has no rights or legitimate interests in the disputed domain name <teamliquid.com>. The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use the disputed domain name <teamliquid.com> for a bona fide offering of goods or services.

Finally, the disputed domain name <teamliquid.com> has been registered and is being used in bad faith. The disputed domain name <teamliquid.com> is used to display advertisements related to the content of the Complainants’ website <teamliquid.net>. Finally, the use of the fictitious name “Team Liquid CA” for the registration of the disputed domain name is a strong evidence for bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **TEAMLIQUID.COM**: Transferred

PANELLISTS

Name	**Prof. Dr. Lambert Grosskopf, LL.M.Eur.**

DATE OF PANEL DECISION 2016-11-08

Publish the Decision