Decision for dispute CAC-UDRP-101373

Case number	CAC-UDRP-101373
Time of filing	2016-12-06 10:20:27
Domain names	nationalcarturkey.com

Case administrator

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

Complainant

Organization	Vanguard Trademark Holdings USA LLC

Complainant representative

Organization	Harness, Dickey & Pierce, PLC

Respondent

Name	enver barlas

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant uses the domain names <nationalcar.net>, <nationalcar.org> itself which are connected to the official web site of the Complainant and the domain name <nationalcar.com> through its licensee Enterprise Rent-A-Car. The Complainant is also the owner of the trademarks for the names “NATIONAL” (Turkish trademark registration n. 170039) in class 39 filed on September 27, 1995 and granted on March 13 1997; “NATIONAL CAR RENTAL” (Turkish trademark registration n. 2002 14165) in classes 36 and 39 filed on June 7, 2002 and granted on October 21, 2003

FACTUAL BACKGROUND

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

The Complainant is a company with its legal seat in Missouri, USA founded in 1948. The Complainant is a well-known company providing daily vehicle rental service throughout many countries under the trademarks “NATIONAL” and “NATIONAL CAR RENTAL”. The Complainant uses the domain names <nationalcar.net>, <nationalcar.org> worldwide and also <nationalcar.com> as to rent a car in Turkey through its affiliate Rent-A-Car.

The Respondent registered the Disputed domain name <nationalcarturkey.com> on October 08, 2016. The Disputed domain name is currently used as an active website in the field of online car rental services.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that 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 that the Respondent 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

I. RIGHTS

The Policy simply requires the Complainant to demonstrate that the Disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The Panel is satisfied that the Complainant is the owner of registrations of the trademarks “NATIONAL” and “NATIONAL CAR RENTAL” in Turkey.

The Panel finds that the Disputed domain name <nationalcarturkey.com> fully incorporates the Complainant’s trademark “NATIONAL” and the first two word elements of its trademark “NATIONAL CAR RENTAL” with the additional element “TURKEY”. The Panel concludes that the addition of the element “CAR” and the geographical term “TURKEY”, which is the residential country of the Respondent, do not eliminate the confusing similarity between the Complainant’s trademarks and the Disputed domain name.

In similar UDRP cases (see, e.g., Sanofi-Aventis v. Gideon Kimbrell, WIPO Case No. D2010-1559; Turkcell Iletisim Hizmetleri A.S. v. Vural Kavak, WIPO Case No. D2010-0010; Greenbrier IA, Inc. v. Moniker Privacy Services/Jim Lyons, WIPO Case No. D2010-0017 and Zodiac Marine & Pool, Avon Inflatables Ltd and Zodiac of North America Inc. v. Mr. Tim Green, WIPO Case No. D2010-0024), the respective UDRP panels found that adding descriptive or low distinctive words does not remove the likelihood of confusion between a trademark and a domain name incorporating said trademark.

The Panel finds that the addition of the gTLD ".com" is irrelevant when determining whether the Disputed domain name is confusingly similar to the Complainant's trademark, PRL USA Holdings, Inc. v. Spiral Matrix, WIPO Case No. D2006-0189.

The Panel is of the opinion that the internet users will fall into false impression that the Disputed domain name is an official domain name of the Complainant. The Panel recognizes the Complainant's rights and concludes that the Disputed domain name is confusingly similar with the Complainant's trademarks. Therefore, the Panel concludes that the requirements of

paragraph 4(a)(i) of the Policy is provided.

II. NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant contends that the Respondent has made no use of, or demonstrable preparations to use, neither of the Disputed domain name in connection with a bona fide offering of goods or services, is not making a legitimate non-commercial or fair use of the Disputed domain names, and is not commonly known under the Disputed domain names.

In the absence of a response, the Panel accepts the Complainant's allegations as true that the Respondent has no authorization to use the Complainant's trademarks in the Disputed domain name. Hence, as the Complainant has made out its prima facie case, and as the Respondent has not demonstrated any rights or legitimate interests as illustrated under paragraph 4(c) of the Policy, nor has the Panel found any other basis for finding any rights or legitimate interests of the Respondent in the Disputed domain name, the Panel concludes that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

III. BAD FAITH

The Panel is of the opinion that due to the earlier rights of the Complainant in the trademarks "NATIONAL" and "NATIONAL CAR RENTAL", as well as its extensive and intensive usage, the Respondent, who appears to be located in Turkey where the Complainant has a recognition, was aware of the Complainant and its trademarks at the time of registration of the Disputed domain name (see e.g., Ebay Inc. v. Wangming, WIPO Case No. D2006-1107; General Electric Company v. CPIC NET and Hussain Syed, WIPO Case No. D2001 0087). Referring to Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net, WIPO Case No. D2000-0226, the Panel believes that the awareness of the Complainant's trademark at the time of the registration of the Disputed domain name is to be considered an inference of bad faith registration.

Therefore, in light of the above-mentioned circumstances in the present case, the Panel finds that the Disputed domain name has been registered and is being used in bad faith and that the Complainant has established the third element under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **NATIONALCARTURKEY.COM**: Transferred

PANELLISTS

Name	**Mrs Selma Ünlü**

DATE OF PANEL DECISION 2017-01-23

Publish the Decision