Decision for dispute CAC-UDRP-101533

Case number	CAC-UDRP-101533
Time of filing	2017-05-18 09:06:53
Domain names	wedos-datacentrum.com

Case administrator

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

Complainant

Organization	WEDOS LIMITED

Respondent

Organization	Offshore Hosting Solutions Ltd.

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings relating to this disputed domain name which are pending or decided

IDENTIFICATION OF RIGHTS

The Complainant uses the domain name “datacentrum.wedos.com” which is connected to the official domain of the Complainant "wedos.org", and is also the owner of the following corresponding “WEDOS" trademarks:
- CZ registration no. 452061 in class 36, WEDOS word mark, priority 20.09.2007;
- International registration no. 978826 in class 36, WEDOS word mark, priority 13.02.2008, designating AG, AU, BH, BQ, BW, CW, DK, EE, FI, GB, GE, GR, IE, IS, JP, KR, LT, NO, SE, SG, SX, SY, TM, TR, US, UZ, ZM;
- CZ registration no. 511106 in classes 35,37,38,39,41,42,45, WEDOS word mark, priority 02.05.2014;
- EU registration no. 013123021 in class 39, WEDOS word mark, priority 29.07.2014;
- International registration no. 1245025 in classes 38,39,42, WEDOS word mark, priority 29.07.2014, designating AU, BA, BY, CH, CN, CU, EG, IN, IS, MA, MC, MD, ME, MG, MK, MX, NO, NZ, PH, RS, RU, SG, TN, TR, UA, US, VN;

FACTUAL BACKGROUND

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

The Complainant is a company with its legal seat in Cyprus. The Complainant has been building their data center (server room) since the beginning of 2010. The Complainant uses the domain name "datacentrum.wedos.com" and its trademark "WEDOS" in connection with the data center. The trademark WEDOS is also used as the business name of the Complainant.

The Respondent is an Off Shore Hosting Company based in the Seychelles. The Respondent registered the domain name "wedos-datacentrum.com" on 28. April 2017. The domain name is currently used for an active domain where the registered trademark "WEDOS" (and the CZ trademark registration no. 341102 in classes 35, 37, 38, 39, 41, 42, 45 priority 02.05.2014, W and device) belonging to the Complainant appears.

PARTIES CONTENTIONS

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

The Panel finds that the disputed domain name “wedos-datacentrum.com” is confusingly similar to the Complainant’s trademark "WEDOS".

It is the view of the Panel that the addition of a hyphen and the top-level domain ".com" are to be disregarded when comparing the disputed domain name to the trademark rights of the Complainant. When disregarding the above, the question of confusing similarity must be considered by comparing "WEDOS" to "WEDOS DATACENTRUM".

When assessing the confusing similarity, the Panel notes that the Respondent has merely added the generic term "DATACENTRUM" to the trademark of the Complainant. The generic word "DATACENTRUM" describes exactly the business of the Complainant carried out under the trademark "WEDOS" (according to the trademark registrations in class 39).

Considering the above the disputed domain name is confusingly similar to the Complainant's trademark rights according to the article 4(a)(i) of the Policy.

It is noted by the Panel, that the Complainant is carrying out their datacenter business from the domain "wedos.datacentrum.com", registered by the Complainant on 29.08.2010. The Respondent's registration of the domain "wedos-datacentrum.com" is considered to by typo-squatting as only the dot after "wedos" has been replaced by a hyphen.

In addition to the above, the Respondent registered the disputed domain seven years after the beginning of the business of the Complainant (registration date: 28 April 2017). Considering that the Respondent has used the trademarks to which the Complainant has exclusive rights on the disputed domain, the Respondent must have been aware of the Complainant business at the time of registering the disputed domain. Using the trademarks on a typo-squatting domain underlines the Respondents desire to mislead costumers that are looking for the domain of the Complainant.

Considering the above mentioned typo-squatting and the lack of response by the Respondent, the Panel concludes that the Respondent has no legitimate rights or interests in the disputed domain name (see paragraph 4(a)(ii) of the Policy), and that the Respondent registered and is using the disputed domain in bad faith (see paragraph 4(a)(iii), 4(b)(iii) and 4(b)(iv)).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **WEDOS-DATACENTRUM.COM**: Transferred

PANELLISTS

Name	**Lars Karnoe**

DATE OF PANEL DECISION 2017-06-15

Publish the Decision