Decision for dispute CAC-UDRP-101531

Case number	CAC-UDRP-101531
Time of filing	2017-05-25 11:13:21
Domain names	cross-lend.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	CrossLend GmbH

Complainant representative

Organization	SKW Schwarz

Respondent

Organization	chashaxiandanxiaohaiwangluokejiyouxiangongsi

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, a registered owner of the following trademark containing a word element "CROSSLEND":

(i) CROSSLEND (word), EU Trademark, filing (priority) date 19 November 2014, filing no. 13475629, registered for goods and services in classes 9,35,36, and 38,

besides other national (German) trademarks consisting of the "CROSSLEND" denomination (collectively referred to as "Complainant's trademarks").

In addition, the Complainant’s company name consist of the term “Crosslend”, which forms a distinctive part of its company (business) name.

FACTUAL BACKGROUND

The Complainant (CrossLend GmbH) is a German company in the financial technology sector, founded in 2014 which operates a multinational platform where private clients can invest and obtain credit across borders. The company is active in Germany, the United Kingdom, the Netherlands, and Spain.

The disputed domain name <cross-lend.com> was registered on 8 November 2016 and is held by the Respondent.

The domain name website (i.e. website available under internet address containing the disputed domain name) currently contains only automatically generated links to various third party content and it also reads “Buy this domain”.

The Complainant seeks transfer of the disputed domain name to Complainant.

PARTIES CONTENTIONS

The Parties' contentions are the following:

COMPLAINANT:

CONFUSING SIMILARITY

The Complainant states that:

- The disputed domain name contains “CROSS” and “LEND” word elements of Complainant's trademarks in its entirety and it is almost identical (i.e. confusingly similar) to Complainant’s trademarks.

- The addition of the hyphen “-“ adds no distinctiveness to the disputed domain name.

Thus, according to the Complainant the confusing similarity between Complainant’s trademarks and the disputed domain name is clearly established.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant states that:

- The Respondent has not been commonly known by the disputed domain name.

- The Complainant has not authorized, permitted or licensed the Respondent to use Complainant’s trademarks in any manner. The Respondent has no connection or affiliation with the Complainant whatsoever. On this record, Respondent has not been commonly known by the disputed domain name.

- Furthermore, the domain name website has been during its existence inactive, containing only automatically generated links to various third party content, which implies that there was no Respondent’s intention to use the domain name for legitimate purposes.

BAD FAITH REGISTRATION AND USE

The Complainant states that:

- Seniority of the Complainant's trademarks predates the disputed domain name registration.
- In a response to Complainant’s cease and desist letter, the Respondent made a proposal to the Complainant to transfer the disputed domain name for a consideration of USD 1 000. Such conduct has been considered in previous cases as an additional evidence of use and registration in bad faith due to the Respondent´s intention to unduly profit from the Complainant´s rights.

- In addition, the domain name website include a short message “Buy this domain” or “Diese Domain Kaufen”, which both indicate Respondent’s intent to sell the disputed domain name for a profit.

The Complainant presents the following evidence which has been assessed by the Panel:

- Information about the Complainant and its business;
- Excerpts from various trademark databases regarding Complainant's trademarks;
- Screenshots of the disputed domain name website;
- Correspondence between the Complainant and the Respondent, in particular a letter from Complainant to Respondent (dated 27 April 2017) and Respondent’s response to the same.

RIGHTS

The Panel concluded that the disputed domain name is confusingly similar to trademarks in which the Complainant has rights within the meaning of paragraph 4(a)(i) of UDRP.

For details, see "Principal Reasons for the Decision".

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 UDRP.

For details, see "Principal Reasons for the Decision".

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 UDRP.

For details, see "Principal Reasons for the Decision".

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

RIGHTS

The disputed domain name and the Complainant’s trademarks are nearly identical.
Addition of a non-distinctive element - the hyphen “-“ - between words CROSS and LAND cannot prevent the association in the eyes of internet consumers between the disputed domain name and the Complainant’s trademarks and thus the likelihood of confusion still exists.
For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the “.com“ or “.biz“) must be disregarded under the identity and confusing similarity tests as it is a necessary technical requirement of registration.

Therefore, the Panel has decided that there is identity in this case, it also concludes that the Complainant has satisfied paragraph 4(a)(i) of the UDRP.

NO RIGHTS OR LEGITIMATE INTERESTS

As evidenced by the Complainant and based on general Internet search, the Respondent is not commonly known by the disputed domain name. Given the fact, that (i) the disputed domain name has not been genuinely used and (ii) in the absence of the Respondent's response, the Panel concludes that there is no indication that the domain name was intended to be used in connection with a bona fide offering of goods or services as required by UDRP.

Consequently, the evidentiary burden shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. However, the Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of UDRP).

BAD FAITH

The Panel finds it grounded that the Respondent offered the disputed domain name for sale to the Complainant as the Respondent made an active attempt to sell the disputed domain name to the Complainant (trademark holder).

This is indicated both by Respondent's proposal to the Complainant to transfer the disputed domain name for a consideration of USD 1 000 as well as by a short message "Buy this domain" or "Diese Domain Kaufen" made available on the domain name website.

Such circumstances indicate that the Respondent has registered and used the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant.

For the reasons described above and since the Respondent failed to provide any explanation in this regard, the Panel contends, on the balance of probabilities, that the disputed domain name has been registered and is being used by the Respondent in bad faith (within the meaning of paragraph 4(a)(iii) of UDRP).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CROSS-LEND.COM**: Transferred

PANELLISTS

Name	**JUDr. Jiří Čermák**

DATE OF PANEL DECISION 2017-07-04

Publish the Decision