Decision for dispute CAC-UDRP-101559

Case number	CAC-UDRP-101559
Time of filing	2017-06-05 09:05:58
Domain names	higopro.com

Case administrator

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

Complainant

Organization	GoPro, Inc.

Complainant representative

Name	JUDr. Matěj Sedláček

Respondent

Name	Jiandong Huang

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided between the same parties and relating to the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

Complainant is the registered owner of several trademark registrations consisting of the term “GOPRO”, in particular European Union trademarks “GOPRO” No. 006750368, registered on 24.10.2008 among others for goods and services in classes 9, 40 and 41 (e.g. “Photographic equipment” etc.) and “GOPRO” No. 012621901, registered on 22.4.2015 among others for goods and services in classes 9, 35, 38, 41 and 42 (e.g. “Photographic equipment” etc.).

FACTUAL BACKGROUND

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

1.
Complainant is a global producer of specific cameras, accessories and technology and was founded in 2002. It sells its products through more than 25,000 stores in over 100 countries worldwide and directly via its own website gopro.com.

2.
The Disputed Domain Name <higopro.com> was registered on 28.12.2014 and currently resolves to a website where

accessories for cameras and sport cameras are offered and sold. In addition, it results from the screenshots taken from the website available under the Disputed Domain Name and provided by the Complainant that Respondent consistently states throughout the header displayed on all pages of that website that he is a “Professional Gopro Accessories Supplier”. Finally, it also results from those screenshots that the Respondent uses the GoPro logo on that website in a font which is identical to the font used on the Complainant’s official website.

3.
It finally results from the undisputed evidence provided by Complainant that Complainant contacted the Respondent in written through its legal representative on 3.5.2017 and setting a term until 12.5.2017 to transfer the Disputed Domain Name. According to the Complainant’s undisputed allegations, Respondent did not reply to this letter.

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

1.
The Panel finds that the Disputed Domain Name <higopro.com> is confusingly similar to the Complainant’s trademarks. As a matter of fact, it entirely contains Complainant’s trademarks “GOPRO” preceded by the English term “hi”, which is commonly used by English native speakers and others as greeting. The Panel therefore considers this element as not being sufficient to render the Disputed Domain Name dissimilar to Complainant’s registered trademarks.

2.
In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. In particular, Respondent is neither affiliated with nor authorized by the Complainant in any way, and he is not related in any way to the Complainant’s business. Moreover, the Respondent has not demonstrated any preparations to use the Disputed Domain Name in connection with a bona fide offering of goods or services. In this context, the Panel notes that the Disputed Domain Name resolves to a website where the Respondent alleges to be a “Professional Gopro Accessories Supplier”. Therefore, the Panel is of the view that the Disputed Domain Name was registered by the Respondent with the intention to obtain financial advantage from the similarity between the Disputed Domain Name and the Complainant's trademark for his own business.

3.
Finally, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith.

In fact, Respondent has intentionally registered the Disputed Domain Name which totally reproduces the Complainant's trademark. From the content of the current website available under the Disputed Domain Name it is also clear that the Respondent has positive knowledge of the Complainant's rights on the trademarks "GOPRO". The Complainant further provided evidence that the Respondent is using the Disputed Domain Name to lead to a website selling cameras and accessories that generate profit to the Respondent. In the Panel's view, these facts, including the fact that the Respondent claims to be a "Professional Gopro Accessories Supplier" and did not reply to Complainant's letter, also confirm that the Disputed domain name is used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location, or of a product or service on the Respondent's web site or location.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **HIGOPRO.COM**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2017-07-12

Publish the Decision