Decision for dispute CAC-UDRP-101625

Case number	CAC-UDRP-101625
Time of filing	2017-09-15 10:37:58
Domain names	coesia-pro.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	Coesia S.p.A.

Complainant representative

Name	Antonio Zama

Respondent

Name	Jakob Schopenhauer

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant provided evidence that its company name COESIA is trademark protected in Italy, the European Union and internationally, and that it owns domain names containing the word “coesia”, coesia.it (created on August 9, 2004) and coesia.com (created on March 17, 2012), registered well before the Respondent registered the disputed domain name.

The Complainant provided evidence that it owns numerous trademarks for the word COESIA, among which , for example, the EU trademark COESIA, registration number 004285037, registered on 14.4.2006 in Nice classes 7,35,42.

FACTUAL BACKGROUND

The Complainant asserts the following:

Coesia S.p.A. is a well-known group of innovation-based industrial and packaging solutions companies operating globally. Coesia Group was created around the company G.D taken over at the end of the 1930s. Coesia companies essentially operate in the following 3 main business lines: (i) advance automated machinery and packaging materials; (ii) industrial process solutions; (iii) precision gears.

The Complainant mainly argues that:

(i) The disputed domain name "Coesia-pro.com" is confusingly similar to the Complainant's Coesia IP (as defined above) because the Respondent's domain name incorporates the distinctive sign "Coesia" in its entirety and has the simple addition of the suffix "pro".

(ii) There isn't a bona fide Respondent's use of the domain name "Coesia-pro.com" and that there is no evidence that the Respondent has been commonly known by the disputed domain name nor evidence of legitimate use and thus the Respondent does not have any rights or legitimate interest in the disputed domain name.

(iii) There is no reasonable possibility that the disputed domain name was selected by Respondent for any purpose other than an attempt to block any registration by Complainant and/or to create a likelihood of confusion with Coesia IP as to source, sponsorship, affiliation or endorsement of Respondent's website and thus the disputed domain name has been registered and is being used in bad faith.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Respondent didn’t react to Complainant’s contentions.

Therefore, he has not produced any arguments or provided any evidence of any actual or contemplated right or legitimate interest in the disputed domain name.

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 “coesia-pro.com” is confusingly similar, likely identical to the trademarks, domains and the company name of the Complainant.

The CAC Case No 101482 - SANPAOLO.XYZ specifies that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety. Here in the present case the Complainant’s company name and its trademark so far are incorporated in the disputed domain name. The suffix “pro” does not change the judgment. The CAC Case No. 101394 - ALLIANZNOW.COM stated that the mere adding of a general word like "now" is insufficient to avoid confusing similarity. The suffix “pro” is also a general syllable without giving a different sense. Similar was decided in the WIPO Case No. D2016-0449 - MITTAL-INVESTMENT.COM. Last not least the TLD “.com” is without consequences for the rights of the Complainant. The inclusion of a GTLD is only referring to the technical

structure of the internets, see e.g. the CAC Case No. 101524 - PIRELI.COM.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Further he argues that the Respondent is not related to the Complainant.

Moreover, the Complainant contends and provided evidence that the disputed domain name resolves to a website which "contact" page shows the contact references of an alleged company named "Coesia Pro S.p.A.". Therefore having regard to this point, it has to be taken into account that the company "Coesia Pro S.p.A." is not registered and as a consequence does not exist in the Italian Registrar of Companies. Further the identity and data of said alleged company are not clearly and fully communicated on the website (i.e.: the VAT and Fiscal code are not included in the "Contact" page nor in the footer) and the identity and personal data of the members of the board of directors are not complete and patently not corresponding to the truth (having regard to the highlighted business experiences in every member's profile, even in the public sector). It looks like that competing use was prepared by the Respondent.

The Complainant further rightfully contends that the Respondent has not developed a legitimate use in respect of the disputed domain name. Competing use is not considered a bona fide nor a legitimate noncommercial or fair use, see WIPO Case D2017-0655 - NUOVARIVER.COM.

The Complainant contends that the Respondent was seeking to use the disputed domain name only to divert consumers to its own website and that the Respondent has no legitimate interests in respect of the disputed domain name.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant also asserted and proved that the Respondent tried to attract internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademarks. The Complainant rightfully contended that coesia-pro.com is identical to the prior trademark protected company name and prior domains coesia.it and coesia.com of the Complainant. The Complainant also refers to the distinctiveness and reputation of its coesia trademarks.

This makes it highly unlikely that the Respondent had no knowledge of the Complainant's prior trademark rights at the time of registration of the disputed domain name. The Respondent lives in Italy, the homeland of the Complainant, what it makes more likely that the Respondent has knowledge of the Complainant. The Complainant rightfully contends that the Respondent has used the disputed domain name intentionally to attract visitors for commercial gain by creating confusion with the Complainant’s trademarks and domains, and that the Respondent has used the disputed domain name with that intention, namely in bad faith.

The Respondent registered the disputed domain name with full knowledge of Complainant's well known company name, trademarks and reputation. Where the Complainant's trademark is well known, see the following cases which stated bad faith, e.g. CAC Case No. 101524 - PIRELI.COM and WIPO Case D2016-0449 - MITTAL-INVESTMENT.COM.

The fact that the Respondent´s conduct is aimed at diverting internet users to an inactive website which does not correspond to the official website of the Complainant, can be seen as evidence of bad faith, see CAC Case No. 100077 - CIC-FX.COM. Had the Respondent wanted to present a bona fide criticism site then it would have been well advised to have included some negative modifier in its domain name and to have restricted itself to objective and reasoned criticism on its website. Bad faith is evident, see for example CAC Case No. 101394 - ALLIANZNOW.COM, whatsoever.

Accordingly, the Panel finds that the disputed domain name was both registered and used in bad faith and that the Complaint succeeds under the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **COESIA-PRO.COM**: Transferred

PANELLISTS

Name	**Dr. jur. Harald von Herget**

DATE OF PANEL DECISION 2017-10-30

Publish the Decision