Decision for dispute CAC-UDRP-101889

Case number	**CAC-UDRP-101889**
Time of filing	**2018-02-20 13:11:32**
Domain names	**atgtillsammans.com, v75tips.com**

Case administrator

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

Complainant

Organization	**Aktiebolaget Trav och Galopp**

Complainant representative

Organization	**BrandIT GmbH**

Respondent

Name	**Markus Nylund**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following trademark registrations for the marks ATG and V75:

- European Union Trademark Registration No. 007428774 for V75 (word mark), filed on November 28, 2008, in classes 36 and 41;
- United States Trademark Registration No. 76107115 for V75 (word mark), filed on August 10, 2000, in International classes 36 and 41;
- Canadian Trademark Registration No. 1070976 for V75 (word mark), filed on August 14, 2000, in classes 36 and 41;
- European Union Trademark Registration No. 007429319 for ATG (figurative mark), filed on November 28, 2008, in classes 36 and 41;
- United States Trademark Registration No. 79125781 for ATG (figurative mark), filed on December 10, 2012, in International class 41;
- International trademark Registration No. 1149106 for ATG (figurative mark), filed on December 10, 2012, in class 41.

The Complainant has also registered several domain names containing the terms ATG and V75 alone or combined with the

terms “tillsammans” and “tipset” (meaning “tips” in Swedish), including <atg.se>, registered on January 18, 1994; <v75.com>, registered on November 6, 2001; <atg.bet>, registered on March 3, 2016; <betv75.com>, registered on January 7, 2013; <v75tillsammans.com>, registered on February 20, 2014; and <v75tipset.com>, registered on October 6, 2011.

FACTUAL BACKGROUND

The Complainant is the Swedish Horse Racing Totalisator Board and was founded in 1974 by the State of Sweden, with the aim of guaranteeing long-term financial stability for trotting and thoroughbred racing. The Complainant’s aim is to be a leading betting company, and to be an attractive workplace with staff who enjoy working for the organization.

In 2013, the Complainant launched a manifesto with the vision of becoming the largest and most profitable gaming company in the Nordic region operating on a global market. Growth since the launch of the manifesto has seen 430,000 registered members playing with the Complainant in the 12 months of 2016.

Launched in 1993, V75 is one of the largest horseracing pools in the world. V75 is held every Saturday on various racetracks throughout Sweden. Players aim to pick the winning horse in seven predetermined races. Consolation payouts are paid to betters who select six or five winners.

The disputed domain names <atgtillsammans.com> and <v75tips.com> were registered on November 11, 2017 and December 7, 2016, respectively. The disputed domain name <atgtillsammans.com> is pointed to a website promoting alleged gaming services and citing the Complainant’s trademark ATG. The disputed domain name <v75tips.com> is currently pointed to a parking page with sponsored links.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS

COMPLAINANT

The Complainant submits that the disputed domain names are confusingly similar to the trademarks ATG and V75 as they encompass the trademarks in their entirety with the mere addition of the non-distinctive words “tillsammans” (“together” in Swedish) and “tips”, both also intrinsically connected to the Complainants business.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names since i) it is not commonly known by the disputed domain names; ii) it has not been authorized to use the Complainant’s trademarks; iii) it is not using the disputed domain names in connection with a bona fide offering of goods or services or a legitimate non-commercial or fair use, since <atgtillsammans.com> has been pointed to a website featuring the trademark ATG prominently, apparently promoting individual tipsters, and providing only a small disclaimer at the bottom of the website which is not sufficient to prevent the impression that the site is associated with or authorized by the Complainant, while <v75tips.com> is pointing to a pay-per-click website where Internet users can find links related to the Complainant’s products and trademarks; iv) it is depriving the Complainant of reflecting its own marks in the disputed domain names.

The Complainant asserts that the Respondent registered the disputed domain names in bad faith since i) the Complainant’s trademarks predate the registration of the disputed domain names; ii) the Respondent has never been authorized by the Complainant to register the disputed domain names; iii) unique combination of “ATGtillsammans” and “V75tips” in the disputed domain names is a deliberate and calculated attempt to improperly benefit from the Complainant’s rights; iv) the trademarks ATG and V75 are well-known marks in the gaming industry especially in Sweden, where the Respondent is located.

With reference to the use of the disputed domain names, the Complainant highlights that <atgtillsammans.com> is pointed to an active web page making unauthorized use of the Complainant’s trademark ATG, and claims that the Respondent is using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation or

endorsement of its website, according to paragraph 4(b)(iv) of the Policy. The Complainant states that paragraph 4(b)(iv) of the Policy also applies to the disputed domain name <v75tips.com>, which leads to a pay-per-click website displaying links for Complainant and competitors' products.

The Complainant also points out that the Respondent's failure to reply to the Complainant's cease and desist letter dated December 21, 2017 and subsequent reminders is an additional evidence of bad faith.

RESPONDENT

The Respondent did not reply to the Complainant's contentions.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names are 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 names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names have been registered and are 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 names are confusingly similar to the Complainant's trademarks ATG and V75, as they reproduce the Complainant's trademarks with the mere addition of the non-distinctive terms "tillsammans" and "tips" and the Top-Level Domain ".com", which is usually disregarded in the assessment of confusing similarity.

2. The Complainant stated that the Respondent is not authorized by the Complainant in any way. There is no evidence of the fact that the Respondent might have been commonly known by the disputed domain names or by a name corresponding to the disputed domain names. The Panel also notes that the Respondent's use of the disputed domain names does not amount to a bona fide offering of goods or services or to a legitimate non-commercial or fair use.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the confusing similarity of the disputed domain names with the Complainant's prior registered trademarks ATG and V75 and of the Complainant's prior use of the trademarks in Sweden, where the Respondent is based, the Respondent was or ought to be aware of the Complainant's trademark at the time of the registration of the disputed domain names. The references to the Complainant's trademarks on the websites to which the disputed domain names resolve indeed support the conclusion that the Respondent registered the disputed domain names with the Complainant's trademarks in mind.

With regard to the use of the disputed domain names, <atgtillsammans.com> is pointed to a website promoting alleged gaming services and displaying the Complainant's trademark ATG, while <v75tips.com> is pointed to a parking page with sponsored links referring to Complainant's trademark ATG and promoting also third-party commercial websites.

In view of the current use of the disputed domain names described above, the Panel finds that the Respondent intentionally attempted to attract Internet users to its websites for commercial gain, by causing a likelihood of confusion with the

Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of its websites according to paragraph 4(b)(iv) of the Policy.

Moreover, the Panel finds that the Respondent's failure to reply to the Complainant's cease and desist letters is a further circumstance demonstrating the Respondent's bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ATGTILLSAMMANS.COM**: Transferred
2. **V75TIPS.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2018-04-17

Publish the Decision