Decision for dispute CAC-UDRP-101898

Case number	**CAC-UDRP-101898**
Time of filing	**2018-04-03 09:56:01**
Domain names	**babbelmagazine.com**

Case administrator

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

Complainant

Organization	**Lesson Nine GmbH**

Respondent

Name	**Fru Nde**

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant relies on the word mark BABBEL registered in jurisdictions including the EU under No. 013641485 on 28 April 2015 and the US under No. 4980763 on 21 June 2016. The Complaint also refers to registrations of a device mark + babbel, but it is not necessary to consider these further in order to decide this case.

FACTUAL BACKGROUND

The Complainant carries on a business under the mark BABBEL which is a global leader for online language learning services. The Complainant operates a website at <www.babbel.com> and promotes its services by an online magazine called "Babbel Magazine".

The disputed domain name was previously directed to a website that purported to promote a business called "Mendy's Pet Care Service" which did not exist. It no longer locates any website.

The Complainant sent cease and desist letters to the Respondent on 11 January 2018 and 15 March 2018, to which it did not receive any reply.

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).

The Panel finds that the Complainant has registered and unregistered rights in the mark BABBEL. The disputed domain name differs from the mark only in the addition of the descriptive word "magazine" and the generic top level domain. Members of the public are obviously likely to assume that the disputed domain name locates a page relating to the Complainant, and in particular to its established magazine.

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).

The Complainant affirms in its Complaint that the Respondent has no right, title, permission, licence or any other legal right to use the Complainant's name, business assets, or the names "babbel" or "babbelmagazine". The Complainant also states that the disputed domain name previously located a website that purported to promote a non-existent business and now does not locate any website. These statements are not disputed.

It is clear from the information filed that the Respondent has not used or made preparations to use the disputed domain name for a bona fide offering of goods or services, is not commonly known by the disputed domain name or any corresponding name, and is not making any legitimate non-commercial or fair use of it.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown that 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).

The disputed domain name must have been intended to refer to the Complainant's magazine and business. It is clear from the use made of it to date that the Respondent had no intention of using it for any legitimate purpose, and the Panel infers that the Respondent's purpose was either to disrupt or threaten to disrupt the Complainant's business or to operate some kind of scam.

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 disputed domain name consists of the Complainant's mark followed by entirely descriptive elements. Respondent has not made any bona fide use of the disputed domain name. The disputed domain name must have been intended to refer to the Complainant and, in the absence of any bona fide use, bad faith is inferred.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BABBELMAGAZINE.COM**: Transferred

PANELLISTS

Name	**Jonathan Turner**

DATE OF PANEL DECISION 2018-05-15

Publish the Decision