Decision for dispute CAC-UDRP-101943

Case number	CAC-UDRP-101943
Time of filing	2018-04-03 09:09:34
Domain names	salomontw.info

Case administrator

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

Complainant

Organization	SALOMON SAS

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	iori yagami

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

The reputation of the Salomon trademarks and domain names is self-evident and proved by the following documents:

Evidence enclosed:

- Complainant's trademarks
- Complainant's domain names

Furthermore Salomon trademarks extensively registered around the world.

FACTUAL BACKGROUND

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

SALOMON SAS is an outdoor sports equipment manufacturing French Company created by the Salomon’s Family on 1947, in Annecy, France.

SALOMON (the Complainant) produces products for various sports markets, including trail running, hiking, climbing, adventure racing, skiing, and snowboarding in over 40 countries on five continents.

The Complainant is the owner of SALOMON® trademarks registered and used all over the world, including in Asia.

The Complainant also owns many domain names including the distinctive wording SALOMON ® such as a large presence in Asia, including the domain name <salomon.tw> registered since November 21, 2007.

The disputed domain name <salomontw.info> was registered on March 30, 2017.

The website attached to the disputed domain name is still active and displays the figurative trademarks and sports products of the Complainant, and pretending to be an official online partner affiliated to the Complainant.

The Complainant sates that the disputed domain name is confusingly similar to its registered trademarks and domain names SALOMON®.

The Respondent is not known as the disputed domain name, but as “WhoisGuard, Inc.”, and has not acquired trademarks mark rights on this term. Indeed, past panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name. Please see for instance:
- FORUM case no. FA 96356 - Broadcom Corp. v. Intellifone Corp.,: Panel stated that the Respondent has “no rights or legitimate interests because the respondent is not commonly known by the disputed domain name or using the domain name in connection with a legitimate or fair use”.

All these elements leads to the conclusion that the Respondent has intentionally attempted to attract Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of such websites. These activities amount to bad faith use of the disputed domain names pursuant to paragraph 4(b)(iv) of the Policy. As explained in case CAC n° 101284 SALOMON SAS v. Hui min <salomontw.com> (“The conclusion is inescapable that the Respondent has intentionally attempted to attract Internet users to his website for commercial gain by creating a likelihood of confusion with the Complainant's SALOMON trademark as to the source, sponsorship, affiliation, or endorsement of his website. These activities are evidence of bad faith registration and use of the disputed domain name pursuant to paragraph 4(b)(iv) of the Policy.”).

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 addition of the geographic term “TW" (for “Taiwan”) at the end of the domain name <salomontw.info> and the gTLD ".info" are not sufficient elements to escape the finding that the domain name is confusingly similar to the Complainant’s trademarks SALOMON®.

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 contends that the Respondent is not affiliated with him nor authorized by him in any way to use the trademarks SALOMON® in a domain name or on a website. The Complainant does not carry out any activity for, nor has any business with the Respondent.

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).

Given the distinctiveness of the trademark and the content of the website, it is clear that the Respondent registered the disputed domain name in knowledge of the Complainant and its trademarks.

All these elements leads to the conclusion that the Respondent has intentionally attempted to attract Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of such websites.

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 three essential issues under the paragraph 4(a) of the UDRP Policy are whether:

i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

ii. the Respondent has no rights or legitimate interests with respect to the disputed domain name; and

iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain names, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant has clearly proven that it is a long standing and successful company in the sport equipment business. It is clear that its trademarks and domain names “SALOMON” are well-known.

The Complainant states that the disputed domain name is confusingly similar to its trademark. Indeed, the trademark is incorporated in its entirety in the disputed domain name.

The disputed domain name is therefore deemed identical or confusingly similar.

b) It has to be stressed that it was proven that there are no fair rights of the Respondent to the disputed domain name. The Respondent is not generally known by the disputed domain name, and have not acquired any trademark or service mark rights in the name or mark.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) The disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder. Therefore there cannot be seen any legitimate interest of the Respondent.

It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain names were registered and used. It is therefore concluded that the disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the UDRP Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SALOMONTW.INFO**: Transferred

PANELLISTS

Name	**Dr. Vít Horáček**

DATE OF PANEL DECISION 2018-05-16

Publish the Decision