Decision for dispute CAC-UDRP-102048

Case number	CAC-UDRP-102048
Time of filing	2018-06-08 10:21:24
Domain names	campusvivendi.com

Case administrator

Name	Sandra Lanczová (Case admin)

Complainant

Organization	VIVENDI

Complainant representative

Organization	Nameshield (Daria Baskova)

Respondent

Name	Super Privacy Service LTD c/o Dynadot

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

According to the Complaint, the Complainant is the owner of several international word and figurative trademarks for “VIVENDI”: No. 687855, registered on February 23d, 1998; No. 737387, registered on May 24th, 2000 and No. 930935, registered on September 22, 2006.

Acoording to the Complainant, he also owns the domain name <vivendi.com> registered on November 12th 1997.

FACTUAL BACKGROUND

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

The Complainant states that the disputed domain name is confusingly similar to its international trademarks VIVENDI.

The disputed domain name incorporates the Complainant’s trademark VIVENDI in its entirety.

The addition of the gTLD “.COM” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademarks and does not change the overall impression of the designation as being connected to the

Complainant’s trademarks.

The addition of the generic term “campus” to the trademark VIVENDI is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant’s trademarks. Many previous UDRP decisions have found that domain names are confusingly similar to trademarks when the domain name incorporates the trademark in its entirety. See for example:
- WIPO Case n° D2003-0696, PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS) (“… the Panel finds that the disputed domain names are confusingly similar to Complainant’s trademarks "PEPSI." All of the contested domain names fully incorporate the trademark "PEPSI," which is a distinctive mark. The mere addition of common terms such as "sports,", "basketball,", "soccer,", "volleyball", "rugby" and the like to the "PEPSI" mark, does not change the overall impression of the designations as being a domain names connected to the Complainant…”);
- WIPO Case n° D2010-1059, RapidShare AG, Christian Schmid v. InvisibleRegistration.com, Domain Admin.

Furthermore, the word “campus” corresponds to the press-release regarding the acquisition of Île Seguin by a Vivendi subsidiary, which plans to build its campus there.

The Complainant further states that the Respondent does not have any rights or legitimate interest in the disputed domain name.

According to the WIPO Case No. D2003-0455, Croatia Airlines d .d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Respondent is not known under the disputed domain name, but as “Super Privacy Service LTD c/o Dynadot”, and is not affiliated with nor authorized by the Complainant in any way. 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. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademarks, or apply for registration of the disputed domain name. Moreover, the disputed domain name does not resolve to any website.

The domain name(s) has been registered and is being used in bad faith.

The Complainant’ trademarks are well known. The past panels have confirmed the notoriety of the trademarks VIVENDI in the following cases:

- CAC Case n° 101875, VIVENDI vs. Phoenix Global Organization Incorporated (“The Panel is convinced that the Trademarks are highly distinctive and well-established.”);

- WIPO Case n° D2011-0154, VIVENDI v. vivendi-mena.com Private Registrant/ Mr. Arshad Mohamed (“…the Panel finds on a balance of probabilities that Respondent’s objective in choosing and using the disputed domain name confusingly similar to Complainant’s well-known trademark VIVENDI was to benefit from Complainant’s trademark’s reputation.”).

Given the distinctiveness of the Complainant's trademarks, reputation and the addition of the word “campus” to the trademark which relates to the recent activities of the Complainant, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark. Please see for instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.

Moreover, the passive holding of the disputed domain name containing a well-known trademark VIVENDI® can be considered as the bad faith registration and use. See:
- WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows;
- WIPO Case No. D2000-0042, Compaq Computer Corporation v. Boris Beric

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.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CAMPUSVIVENDI.COM**: Transferred

PANELLISTS

Name	**Tom Joris Heremans**

DATE OF PANEL DECISION 2018-07-13

Publish the Decision