Decision for dispute CAC-UDRP-102039

Case number	CAC-UDRP-102039
Time of filing	2018-06-01 14:20:07
Domain names	blockchainvivendi.com

Case administrator

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

Complainant

Organization	VIVENDI

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	antonino cagnina

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of international registration IR 687855, designated in many countries, including Italy claiming protection in class 9, 35, 36, 38, 39, 40, 41 and 42.

The Complainant has also registered and communicates on Internet through various domains, including <vivendi.com> which was registered on 12 November 1997.

FACTUAL BACKGROUND

The Complainant is a French multinational mass media conglomerate headquartered in Paris with activities in music, television, film, video games, telecommunications, tickets and video hosting service founded over 150 years ago.

The disputed domain name was registered on 16 May 2018 and displays the content, via <iframe>, of http://mcc.godaddy.com/ which is a standard “website coming soon”-message.

On 17 May 2018, the Complainant sent a Cease and Desist letter regarding the disputed domain name.

The Respondent is, according to the reply to the Cease and Desist letter, a financial professional, expert of blockchain technologies, and the domain was lawfully registered for purposes not directly related to those concerning the "Vivendi" trademark but merely a reference to a lifestyle-oriented by these new technologies.

Additionally, the Respondent suggested an economic offer be made to him in order to transfer the domain to the Complainant.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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).

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 disputed domain name consists of two words, namely “BLOCKCHAIN and “VIVENDI”.

A blockchain is a growing list of records, called blocks, which are linked using cryptography. Each block contains a cryptographic hash of the previous block, a timestamp, and transaction data.

A blockchain is typically managed by a peer-to-peer network collectively adhering to a protocol for inter-node communication and validating new blocks. Once recorded, the data in any given block cannot be altered retroactively without alteration of all subsequent blocks, which requires the consensus of the network majority.

(Modus) vivendi is a Latin phrase that means “way of life”. It often is used to mean an arrangement or agreement that allows conflicting parties to coexist in peace. In science, it is used to describe lifestyles.

Consequently, based on the above, the disputed trademark will, in the minds of the consumers likely to mean “transaction data lifestyle”.

When assessing the above in trademark context, it has to be taken into account that the Complainant’s trademark is, if not well-known, then at least widely recognised as the Complainant’s trademark.

The visual and phonetic similarity between the disputed domain name and the Complainant’s trademark are apparent in the identity of the word “vivendi” and differs by the Respondent’s previous word “blockchain”.

However, as described earlier, the disputed domain name consists of two separate words which are individually, both visually and phonetically, recognised.

Conceptually, the disputed domain name and the Complainant's trademark differs in pronunciation for the foregoing reasons but as the word "BLOCKCHAIN" is easily distinguishable from "vivendi" the latter is highly recognisable in the disputed domain name.

In regard to the goods or services offered on the disputed domain name, the lack of visual content prohibits an actual comparison with the Complainant's trademarks.

However, based on the initial definition of a blockchain, it inherently has to do with the transaction of data in a network and these services are coved by the Complainant's trademark registration.

The Respondent's apparent unwillingness to respond more accurately to the Complainant's Cease and Desist letter, naturally carries a procedural risk, in this case, the determination of which services are likely to be offered on the disputed domain name pursuant the Respondent's reply.

This combined with the Respondent's abnormally quick suggestion of economic compensation for a domain name which he registered 1 day prior leads this Panel to conclude, that the Respondent did not adequately show legitimate interests in the disputed domain name and the registration was, consequently, made in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BLOCKCHAINVIVENDI.COM**: Transferred

PANELLISTS

Name	**Lars Karnoe**

DATE OF PANEL DECISION 2018-07-15

Publish the Decision