Decision for dispute CAC-UDRP-102062

Case number	CAC-UDRP-102062
Time of filing	2018-06-22 00:00:00
Domain names	vivendi.ooo

Case administrator

Name	Sandra Lanczová (Case admin)

Complainant

Organization	VIVENDI

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Manoj Ghag

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is a French multinational mass media conglomerate headquartered in Paris. The company has activities in music, television, film, video games, telecommunications, tickets and video hosting service.
Its subsidiary UNIVERSAL MUSIC GROUP is engaged in recorded music, music publishing and merchandising.

The Complainant is the owner of several international trademark registrations “VIVENDI”, such as the international trademark VIVENDI® n°687855, registered and renewed since February 23rd 1998 and the international trademark VIVENDI® n° 706637 registered and renewed since December 22nd 1998.

It also owns various domain names, such as the domain name <vivendi.com> registered on November 12th 1997.

FACTUAL BACKGROUND

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

the domain name includes in its entirety the Complainant’s trademark without any adjunction of letter or word.
Consistently with settled UDRP case law, the disputed domain name is identical with Complainant's trademark (WIPO Case

No. D2017-1039, Compagnie Générale des Etablissements Michelin v. dfdfddan wei, Mi Mi Xiao Wang (“It is the consensus practice of past UDRP panels that TLDs, in this case “.xyz”, should be disregarded when comparing domain names with trademarks.”; NAF Case No. FA1609001695155, Glen Raven, Inc. v. Mustafa Yaman / Yaman Branda (“Accordingly, the Panel finds the <sunbrella.xyz> domain name identical to the SUNBRELLA mark; NAF Case No. FA 918556, Disney Enters., Inc. v. Kamble (“The Panel finds that Respondent is redirecting Internet users interested in Complainant’s products and services to its own website for commercial gain and that such use does not fall within the parameters of a bona fide offering of goods or services pursuant to Policy ¶ 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy ¶ 4(c)(iii).; WIPO Case No. D2009-0776, Aspen Holdings Inc. v. Rick Natsch, Potrero Media Corporation (“the Respondent cannot establish rights or legitimate interests through the use of a disputed domain name with a pay-per-click landing page containing links to ads that relate to the Complainant's area of commercial activity, thus manifesting an intent to exploit and profit from the Complainant's mark."; CAC Case No. 101875, VIVENDI v. Phoenix Global Organization Incorporated (“The Panel is convinced that the Trademarks [VIVENDI] are highly distinctive and well-established.”; NAF Case No. 1704957, Pearson Education Limited and Pearson plc v. Hong young jin (“As stated previously, Respondent’s domain name resolves to a website hosting links and advertisements related to Complainant’s education business and PTE marks. […] Attempting to use a disputed domain name to profit from an Internet user’s mistaken associations with a complainant demonstrates bad faith under Policy ¶ 4(b)(iv). […]. The Panel finds that Respondent demonstrated bad faith pursuant to Policy ¶ 4(b)(iv).”)

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

Respondent is not known by the Complainant. The Complainant contends that Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The disputed domain name is parked with links to UNIVERSAL MUSIC GROUP, which constitutes non legitimate use according to established UDRP case-law (NAF Case No. FA 918556, Disney Enters., Inc. v. Kamble).

The Complainant asserts that the Respondent has only registered the domain name in order to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s trademark.

Given the distinctiveness and global reputation of VIVENDI trademark, Respondent registered and used the disputed domain name in bad faith, attempting to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademark.

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.

PRINCIPAL REASONS FOR THE DECISION

The ".ooo" gTLD is a new top level domain offering better features in terms of Search Engines Optimization. As such, it is able to impact in the functions of the trademark, especially considering the SEO-friendly features of such new gLTD. Given the famousness of the Complainant's trademark, in one with Respondent's defaul in providing any reasonable explanation, the Panel is convinced this is a clear cut case of cybersquatting, where the disputed domain name has been selected and used in order to exploit Complainant's global brand.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **VIVENDI.OOO**: Transferred

PANELLISTS

Name	**Roberto Manno**

DATE OF PANEL DECISION 2018-07-27

Publish the Decision