Decision for dispute CAC-UDRP-101939

Case number	**CAC-UDRP-101939**
Time of filing	**2018-10-02 11:49:20**
Domain names	**inspiration-group.biz**

Case administrator

Name	**Šárka Glasslová (Case admin)**

Complainant

Organization	**Inspiration GI GmbH**

Complainant representative

Organization	**SKW Schwarz Rechtsanwälte**

Respondent

Name	**Valentin D. Vlasov**

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The complainant is the proprietor of the EU trade mark no. 015112261 “ig Inspiration Group”, filed on 16/02/2016 in classes 35, 36, 37. The trade mark was registered on the 15/06/2016. "Inspiration Group" is also the company name of the complainant. Additionally, the complainant also holds and uses the domain names https://www.inspirationgroup.de/ and www.inspirationgroup.biz.

FACTUAL BACKGROUND

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

I. Factual Grounds – Right to the name and trade mark

The Complainant is a real estate company based in Berlin. The Complainant’s activities focus on the real estate market in Berlin. Its services include property search and advice, consulting regarding financing and payment, tenant and property management, investment planning, design and renovation services as well as property resales. The Complainant’s business activities under the company name “Inspiration Group” go back to 2009. Additional information was made available by the Complainant on the website <www.inspirationgroup.biz>.

The Complainant holds the EUTM no. 015112261 “ig Inspiration Group”, filed on 16/02/2016 in classes 35, 36, 37 and registered on 15/06/2016. The Complainant also holds and uses the domain names <https://www.inspirationgroup.de/> and <www.inspirationgroup.biz>.

In September 2018, it came to the Complainant's attention that the Respondent, a Registrant from Russia, had registered the domain name inspiration-group.biz. The Respondent has copied the Complainant’s website and pretends to be the Complainant. The identity of the holder of the domain is not revealed on the website. The “support telegram” can be addressed to a person named „Dmitry Wolkow” “Дмитрий Волков.....@volkov1283. This person does not work for or with the Complainant. Moreover a fake facebook-like vk-Account has been created.

II. Legal Grounds

The names "inspiration-group" and "inspiration group" are confusingly similar, the only visual difference being the hyphen between the words inspiration and group. Given that hyphens are very commonly used in composite word domain names, since blanks cannot be entered, the level of confusion is significant. The Disputed domain name is also confusingly similar to the Complainant's company name and trade mark.

1. No rights or legitimate interests

Nothing indicates that the Respondent could have a right to the Disputed domain name. The Complainant has not authorized the Respondent to use the trade mark and company name or initiated the registration of this domain. Neither has the Complainant authorized the Respondent to steal its identity.

The Respondent undoubtedly seeks to make financial gains from this fake website by means of the “registration” tool for curious customers. The display of such fraudulent content does not constitute a legitimate use. Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a Respondent. The sole purpose of the domain name registration is to create a danger of confusion in order to commercially exploit the reputation of the name and trademark.

2. Bad Faith

The trade mark and company name are unfairly exploited for the Respondent’s commercial interest. The Respondent has registered the Disputed domain name primarily for the purpose of disrupting the Complainant’s business. Presumably the Respondent counts on selling, renting, or otherwise transferring the Disputed domain name to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant. By using the Disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location or of a product or service on the Respondent’s website or location.

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.

PRINCIPAL REASONS FOR THE DECISION

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According to Paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements to obtain an order that the Disputed domain name should be transferred or cancelled:

(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 in respect of the Disputed domain name; and

(iii) the Disputed domain name has been registered and is being used in bad faith.

The Panel has examined the evidence available to it and has come to the following conclusion concerning the satisfaction of the three elements of paragraph 4(a) of the Policy in these proceedings:

RIGHTS

The Disputed domain name is confusingly similar to the Complainant’s Trademark, company name and domains. This finding is based on the settled practice in evaluating the existence of a likelihood of confusion of

a) disregarding the top-level suffix in the domain name (i.e. “.biz”, “com” or “de”), and

b) not finding that the addition of a hyphen instead of a linguistically correct free space (the use of which is not possible in domain names) would be sufficient to distinguish a domain name from a trademark.

c) finding that the addition or omission of single or twin letters to or from an otherwise complex mark, does not automatically suffice to avoid the existence of confusing similarity. The Complainant’s EUTM is a word and device mark which consists of the elements “ig” and the words “Inspiration Group”. The letters "ig" are clearly an acronym of the following words. This does not make the Disputed domain name sufficiently different from the registered mark. As far as the company name and the domains of the Complainant are concerned, the only difference is the hyphen which can be disregarded. This leads to the finding that there is confusing similarity.

Therefore, the Panel comes to the conclusion that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The onus to make out a prima facie case that the Respondent lacks rights or legitimate interests is placed on the Complainant. However, once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the Disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have

satisfied paragraph 4(a)(ii) of the UDRP (see e.g. WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

The Complainant has put forward that the Respondent is not commonly known by the Disputed domain name. Neither is the Respondent in any way related to the Complainant. Nor has the Respondent been granted an authorization or license to use the Disputed domain name by the Complainant. This has not been contested by the Respondent. Instead, the Respondent failed to provide any information and evidence whatsoever that could have shown that it has relevant rights or legitimate interests in respect of the Disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy). The Complainant on the other hand provided compelling evidence of an identity theft by the Respondent to the extent that fake profiles and web pages were created using both the Complainant's name and logo.

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the Disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel finds that the Complainant has established that the Disputed domain name was registered by the Respondent and is being used by the Respondent in bad faith. For this purpose, the Complainant has successfully put forward convincing prima facie evidence that the Respondent is using the Disputed domain name in such a way as to unfairly exploit the Complainant's reputation and commercial interest. As shown by the Complainant, the Respondent has registered the Disputed domain name primarily for the purpose of disrupting the Complainant's business. This is clearly the case when considering the fake profile and web pages created by the Respondent. By using the Disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

Given the reputation of the Complainant and its trademarks, company name and domains as supported by the Complainant's evidence and the use of the Disputed domain name made by the Respondent, the Panel must conclude that the Respondent was fully aware of the Complainant's trademarks, domain and company name at the time of registering the Disputed domain name. Therefore, it has been established to the satisfaction of the Panel that the Disputed domain name was registered and is being used in bad faith, in order to intentionally attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

Therefore, the Panel concludes that the Respondent has registered and is using the Disputed domain name in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INSPIRATION-GROUP.BIZ**: Transferred

PANELLISTS

Name	**Udo Pfleghar**

DATE OF PANEL DECISION 2018-11-14