Decision for dispute CAC-UDRP-102280

Case number	**CAC-UDRP-102280**
Time of filing	**2018-12-31 12:03:26**
Domain names	**filehippoc.com**

Case administrator

Name	**Šárka Glasslová (Case admin)**

Complainant

Organization	**FileHippo s.r.o.**

Complainant representative

Organization	**Rudolf Leška, advokát**

Respondent

Name	**Akash Sigh**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided between the same parties and relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of several trademark registrations containing and or consisting of the term "FILEHIPPO" in particular EU word mark "FILEHIPPO" No. 008893745, registered with priority on February 18, 2010 for goods in class 9 and services in classes 35 and 42.

FACTUAL BACKGROUND

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

The Complainant holds the domain name <filehippo.com> created on November 1, 2004 which offers software downloads focused on highest quality freeware. The aim of the website is to provide users with a legal method of downloading updated freeware.

The Respondent registered the disputed domain name on December 4, 2016. The disputed domain name does currently resolve to a website offering software downloads and showing the Complainant´s logo as well as references to the Complainant's website <filehippo.com>.

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

1.
The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark.

Many panels have found that a domain name is confusingly similar to a complainant’s trademark where it incorporates the complainant’s trademark in its entirety. This is the case in the case at issue where the Complainant’s registered trademark "FILEHIPPO" is fully included in the disputed domain name.

The fact that the disputed domain name adds the additional letter "c" at the end of the domain name does not add any distinctive matter so as to distinguish the disputed domain name from Complainant’s trademark. It is rather an evident misspelling of the registered trademark. The trademark “FILEHIPPO” remains readily identifiable within the disputed domain name.

2.
In the absence of any response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented a prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not affiliated with nor authorized by the Complainant to use the Complainant's trademark. Furthermore, it is not related in any way to the Complainant's business either. In addition, the Respondent is not commonly known by the disputed domain name. Finally, the Panel is convinced that the disputed domain name is currently used in a way that seeks to create a false impression of association with the Complainant, by using its logo. This can neither be considered bona fide offering of goods or services nor a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

3.
Finally, the Panel finds that the disputed domain name has also been registered and is being used in bad faith.

It is the view of this Panel that the Respondent has intentionally registered the disputed domain name, which fully includes the Complainant’s trademark, in order to attract, for commercial gain, Internet users to its website by creating a likelihood of

confusion with the Complainant’s trademark as to the source, sponsorship, affiliation or endorsement of its website. These findings are supported by the fact that on that website, the Respondent uses the Complainant's logo and trade dress.

Considering the quasi-identity between the trademark "FILHIPPO" and the disputed domain name, which suggests the Respondent’s awareness of the trademark, the Panel finds that the Respondent registered and is using the disputed domain name for bad faith purposes. Relevant factors are (i) the high degree of distinctiveness of the Complainant’s mark, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use, (iii) the Respondent has concealed its identity and, finally, (iv) the implausibility of any good faith use to which the disputed domain name may be put.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **FILEHIPPOC.COM**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2019-02-13

Publish the Decision