Decision for dispute CAC-UDRP-102347

Case number	CAC-UDRP-102347
Time of filing	2019-02-15 10:48:31
Domain names	julian-hosp.com, stophosp.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Name	Dr. Julian Hosp

Respondent

Organization	1337 Services LLC

OTHER LEGAL PROCEEDINGS

This panel is not aware of any of other legal proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of 2 EU-trademarks, namely EUIPO 017774308 “Julian Hosp” and 017774316 “Dr. Julian Hosp” both registered in class 25, 35, 38 and 41 on 16 May 2018 and copies of the registration certificates were attached to the Complaint.

The Complainant has also registered and communicates on the Internet through the domain <julianhosp.com> which was registered on 6 December 2009.

FACTUAL BACKGROUND

According to the Complainant, Dr. Julian Hosp is a well-known speaker, author and public personality for over several years. The Complaint has an active Trademark in the EUIPO for his name Julian Hosp and Dr. Julian Hosp as mentioned above.

The disputed domain names are actively used to harm the reputation of Dr. Julian Hosp and his companies and despite having reached out to the owner of the disputed domain names through a contact form, the Complainant never received any reply.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

Domain: <julian-hosp.com>
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).

Domain: <stophosp.com>
The Complainant has not, 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

Domain: <julian-hosp.com>
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).

Domain: <stophosp.com>
The Complainant has not, 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

Domain: <julian-hosp.com>
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).

Domain: <stophosp.com>
The Complainant has not, 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

This case concerns 2 different disputed domain names, namely <stophosp.com> and <julian-hosp.com> and although these might, in the opinion of the Complainant – be similarly disconcerting in terms of the content, this Panel must base its decision solely on the UDRP Policy and will, consequently, not asses or rule based on whether the content on the disputed domains are defamatory, or even right or wrong.

As mentioned by the Complainant, Dr. Julian Hosp is a well-known speaker, author and public personality and, consequently, he must also endure people who disagree or even actively oppose him to a certain extent in a free democracy.

Secondly, neither of the Complainants trademarks “Julian Hosp” or “Dr. Julian Hosp” are being infringed by the disputed domains, because trademarks are commercial rights used to distinguish the goods and services of one commercial entity from goods and services of other commercial entities and – as far as this Panel is concerned – neither of the disputed domains are used commercially.

Finally, third-party is entitled to register domains suitable for conveying their message, so far as, they have a legitimate interest herein and the domain is not registered in bad faith.

Domain: <julian-hosp.com>
Given that the above-mentioned disputed domain names consist solely of the Complainants name, and that the Complainant registered and used the domain name <julianhosp.com> for several years, this Panel is of the opinion that the Respondent has no legitimate interest in the disputed domain name and that it is registered in bad faith.

The principle reason being, that the Respondent can exercise their freedom of speech rights without taking advantage of the reputation build by Dr. Julian Hosp and without exploiting the possibility of confusion between the Complainant domain name and the disputed domain name <julian-hosp.com>.

Domain: <stophosp.com>
As mentioned earlier, both the disputed domain names might – according to the Complainant – be similarly disconcerting in terms of content, but according to the UDRP policy a complaint can only be successful if the Complaint proves that the Respondent has no legitimate interest in the disputed domain name and that it is registered in bad faith.

Given Dr. Julian Hosp's public persona, he must endure that certain people disagree with him and are willing to actively oppose him.

The use of the disputed domain name <stophosp.com> is – in this Panels opinion - within the realm of (public) legitimate interest and, consequently, not registered in bad faith.

The principle reason being, that the Respondent is allowed to exercise their freedom of speech against any one person and that the disputed domain name is not confusingly similar to either Dr. Julian Hosp's name or domain, and can, consequently, not be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Partially Accepted/Partially Rejected

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

1. **JULIAN-HOSP.COM**: Transferred
2. **STOPHOSP.COM**: Remaining with the Respondent

PANELLISTS

Name	**Lars Karnoe**

DATE OF PANEL DECISION 2019-03-18

Publish the Decision