Decision for dispute CAC-UDRP-102478

Case number	CAC-UDRP-102478
Time of filing	2019-05-03 09:14:49
Domain names	blablacar.vip

Case administrator

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

Complainant

Organization	COMUTO

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Tracy Spears

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, proprietor of the Union trademark registration BLABLACAR 010812485 registered on August 31, 2012.

FACTUAL BACKGROUND

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

In accordance with non disputed explanations of the Complainant, the Complainant is doing business since 2006 under the denomination BLABLACAR as a trusted community marketplace that connects drivers with empty seats to passengers looking for a ride. With 70 million members in 22 countries and over 25 million travellers every quarter, this service is making travel social, money-saving and more efficient for millions of members.

The disputed domain name has been registered on April 19, 2019 and redirects to a page displaying a generic “search engine”.

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

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(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 with respect to the disputed domain name; and

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

A. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for “BLABLACAR”.

The disputed domain name is confusingly similar, i.e. identical to the Complainant´s mark, whereas the top level domain, here .vip, is usually not considered as influencing the distinctiveness of a domain name.

The Panel therefore considers the disputed domain name to be confusingly similar to the trademark "BLABLACAR" in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name “BLABLACAR” or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

In view of the non-disputed assessment that the Complainant is a significant player in the business of passenger transportation by connecting drivers with empty seats to passengers looking for a ride and in view of the significant number of members and in view of the fact that Complainant´s trademark has no clear descriptive meaning, the Respondent must have been well aware of the Complainant and its trademark when registering the disputed identical domain name. The Complainant had not authorized the Respondent to make use of its mark. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular disputed domain name without the Complainant's authorization.

The circumstances of this case indicate that the Respondent registered and used the disputed domain name primarily with the intention of attempting 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 such website or location, or of a product or service on such website or location.

The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with 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. **BLABLACAR.VIP**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2019-06-13

Publish the Decision