Decision for dispute CAC-UDRP-102524

Case number	CAC-UDRP-102524
Time of filing	2019-06-07 12:31:25
Domain names	vivendi-offers.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	VIVENDI

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Flor Walden

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademark registrations for VIVENDI, including the following:

- International trademark registration No. 687855, for VIVENDI (word mark), registered on February 23, 1998, in classes 9, 35, 36, 37, 38, 39, 40, 41 and 42;

- International trademark registration No. 930935 for VIVENDI (figurative mark), registered on September 22, 2006, in classes 9, 16, 28, 35, 36, 38, 41 and 42.

FACTUAL BACKGROUND

The Complainant is a French multinational mass media conglomerate headquartered in Paris and founded on December 11, 1987. The company has activities in music, television, film, video games, telecommunications, tickets and video hosting services.

Today, the Complainant has 44,142 employees in 78 countries. The Complainant’s total revenues amounted to €13,932

million worldwide in 2018.

The Complainant owns and communicates on Internet through various domain names, such as the domain name <vivendi.com> registered on November 12, 1997.

The disputed domain name <vivendi-offers.com> was registered on May 29, 2019 and redirects to the Complainant's official website at <vivendi.com>.

PARTIES CONTENTIONS

COMPLAINANT

The Complainant contends that the disputed domain name <vivendi-offers.com> is confusingly similar to the Complainant's trademark VIVENDI, as it includes the trademark in its entirety with the mere addition of a hyphen followed by the word "offers", which does not change the overall impression of the designation as being connected to the Complainant's trademark.

The Complainant also states that the Respondent has no rights or legitimate interests in the disputed domain name since the Respondent i) is not commonly known by the disputed domain name, ii) is not affiliated with nor authorized by the Complainant in any way, iii) has not been granted by the Complainant any license or authorization to use the Complainant's trademark VIVENDI or apply for registration of the disputed domain name.

Furthermore, the Complainant asserts that the Respondent is not making a bona fide use or legitimate non-commercial or fair use of the disputed domain name since its registration, as the disputed domain name redirects to the Complainant's official website.

Lastly, the Complainant argues that, in light of the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks.

RESPONDENT

The Respondent did not reply to the Complainant's contentions.

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 word and figurative trademarks VIVENDI, as it includes the denominative element "vivendi" with the mere addition of a hyphen, the word "offers" and the Top-Level domain ".com". As stated in a number of prior decisions rendered under the UDRP, these minor changes are not sufficient to exclude the likelihood of confusion.

2. According to the records, there is no evidence of the fact that the Respondent might be commonly known by the disputed domain name or by a name corresponding to the disputed domain name. Moreover, since the Respondent is not affiliated with or authorized by the Complainant in any way, the Respondent's redirection of the disputed domain name to the Complainant's website shows that it did not make use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, or that it made a legitimate non-commercial or fair use of the disputed domain name. Therefore, and in the absence of a Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the distinctiveness and well-known character of the Complainant's trademark, with which the disputed domain name is confusingly similar, and of the prior registration and use of the trademark VIVENDI by the Complainant, the Respondent was in all likelihood aware of the Complainant's trademark at the time of the registration of the disputed domain name.
Moreover, as stated in prior UDRP decisions, the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.
The Panel also finds that the Respondent's redirection of the disputed domain name to the Complainant's website amounts to bad faith since the Respondent retains control over the redirection, thus creating a real or implied ongoing threat to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **VIVENDI-OFFERS.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2019-07-17

Publish the Decision