Decision for dispute CAC-UDRP-102713

Case number	CAC-UDRP-102713
Time of filing	2019-10-21 13:18:07
Domain names	trezormini.com

Case administrator

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

Complainant

Organization	SatoshiLabs s.r.o.

Complainant representative

Name	Mgr. Ondřej Dlouhý

Respondent

Name	Anton Vlasov

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, inter alia, of the following trademark registration:

- European Union trademark registration No. 017887436 for TREZOR (figurative mark), filed on April 12, 2018 and registered on August 1, 2018, in classes 9, 36 and 38.

The Complainant is also the owner of the domain name <trezor.io>, registered on July 21, 2014.

FACTUAL BACKGROUND

The Complainant was established in Prague, in late 2013, by two of the leading personalities in the crypto community. Active in the field of company goods including hardware cryptocurrency wallet Trezor and its accessories (cables, foils, charging USBs, cases, and backup tools), firmware used in the wallet and software cryptocurrency wallet, the company features Ethereum integration, Secure admin SSH access, 2-factor authentication, GPG encryption, and others, supporting a wide array of digital coins that include Litecoin, Ethereum, Dash, Ethereum Classic and ZCash.

The disputed domain name <trezormini.com> was registered on March 16, 2018 and has been pointed to a website purportedly promoting a bitcoin wallet similar to the one offered by the Complainant under the trademark TREZOR.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS

COMPLAINANT

The Complainant contends that disputed domain name <trezormini.com> is confusingly similar to the trademark TREZOR in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the descriptive term “mini” and the generic Top Level Domain “.com”.

The Complainant further underlines how the choice of the selected disputed domain name can in no way have been coincidental, since not only did the Respondent use the Complainant’s trademark in its entirety, but also appears to be selling counterfeit products, very similar to those offered by the Complainant through its www.shop.trezor.io site, thus creating an impression of affiliation between the Complainant and the Respondent as well as creating a likelihood of confusion and damaging the Complainant’s reputation.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that neither the Respondent, nor its products, are commonly known by the domain name, and that the Respondent does not possess any trademark to vouch for the use of the disputed domain name.

The Complainant further underlines how the Respondent has clearly proved, by registering the disputed domain name, that its sole interest was to obtain commercial gain while riding on the reputation of the Complainant and selling counterfeit products.

The Complainant therefore asserts that the Respondent does not have any legitimate interests in respect of the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainant indicates that, by selling on its website products similar to those sold by the Complainant and associating these to the TREZOR mark with the same meaning as the one given by the Complainant, the Respondent is clearly making an impression of affiliation between the counterfeit product and the original product.

Moreover, the Respondent is using the logo from the Complainant’s registered trademark on the website’s favicon, thus strengthening the impression of being the original producer of TREZOR product.

The Complainant also underlines how the Respondent is using a similar webpage layout, fonts, colors etc. to the original webpage of the Complainant “www.trezor.io”, where the original product and services may be purchased, thus again creating a likelihood of confusion and misleading consumers.

The Complainant further argues that, on the website under the disputed domain name, the Respondent is publishing several links to the Complainant´s other services such as the Complainant´s online service “wallet.trezor.io”, in order to mislead customers about the association with the Complainant (when there is no any) and to ride on the Complainant´s good reputation.

Finally, the Complainant asserts that the Respondent is probably the same as the one involved in a previous WIPO proceeding against the Complainant, in which the latter was granted the cancellation of the disputed domain name, and highlights that in this case the Respondent is using the disputed domain name with a same name (only with a different Top-Level domain) to continue sharing its content. The Complainant believes that this behavior alone may be considered as acting in a bad faith.

The Complainant therefore feels that the Respondent has registered the disputed domain name in bad faith.

RESPONDENT

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

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark TREZOR, as it includes the core of the Complainant's trademark, consisting of the denominative element "trezor", with the mere addition of the generic term "mini" and the generic Top-Level domain ".com" which, as stated in a number of prior decisions rendered under the UDRP, are not sufficient to prevent a finding of confusing similarity.

The Complainant stated that the Respondent is not affiliated with or authorized by the Complainant in any way. There is no evidence of the fact that the Respondent might have been commonly known by the disputed domain name or by a name corresponding to the disputed domain name.

According to the evidence on records, the Respondent has pointed the disputed domain name to a website featuring the Complainant's trademark TREZOR and offering for sale purported TREZOR products, without providing any accurate disclaimer as to the lack of affiliation with the Complainant and thus generating the impression that the website is operated by, or affiliated with, the Complainant. The Panel finds that such use of the disputed domain name does not amount to a bona fide offering of goods or services.

Moreover, the use of the disputed domain name described above clearly does not amount to a legitimate non-commercial or fair use.

Therefore, 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 and that, by not submitting a Response, the Respondent has failed to rebut the Complainant's prima facie case.

As to the bad faith at the time of the registration, the Panel finds that, in light of the prior registration and use of the trademark TREZOR in connection with the Complainant's products, the fact that the trademark is known its sector and the express reference to the Complainant's trademark and products on the website published at the disputed domain name, the Respondent was very likely aware of the Complainant's trademark at the time of the registration of the disputed domain name.

In view of the current use of the disputed domain name to redirect users to a website featuring the Complainant's trademark and offering for sale purported TREZOR products, the Panel finds that the Respondent intentionally attempted to attract Internet users to its website for commercial gain, by causing a likelihood of confusion with the Complainant's trademark TREZOR as to the source, sponsorship, affiliation or endorsement of its website and the products offered therein, according to paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **TREZORMINI.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2019-12-16

Publish the Decision