Decision for dispute CAC-UDRP-102650

Case number	**CAC-UDRP-102650**
Time of filing	**2019-10-01 10:08:41**
Domain names	**ccleanercrack.info**

Case administrator

Name	**Šárka Glasslová (Case admin)**

Complainant

Organization	**Piriform Software Limited**

Complainant representative

Organization	**Rudolf Leška, advokát**

Respondent

Name	**jamshad hashmi**

OTHER LEGAL PROCEEDINGS

To the best of the Panel's knowledge, there are no other legal proceedings, pending or decided, in relation to the disputed domain name.

IDENTIFICATION OF RIGHTS

In support of its Complaint, the Complainant has provided evidence of its registration of, inter alia, the following trademarks:

- European Union Trade Mark No. 007562002, CCLEANER, registered on November 10, 2009;

- United Kingdom Trade Mark No. UK00002486623, CCLEANER, registered on January 2, 2009; and

- United States Trademark Registration No. 3820254, CCLEANER, registered on July 20, 2010.

FACTUAL BACKGROUND

The Complainant is a British software company. The Complainant provides a PC optimization software called "CCleaner", which is designed to protect PC users' privacy and to make their computers faster and more secure. The Complainant distributes its CCleaner software via its websites "www.piriform.com" and "www.ccleaner.com", from which the software is available for direct download. Authorization to use the software downloaded from the Complainant's website is regulated by the Complainant's "End User License Agreement". Use of the Complainant's software is strictly limited to personal use.

For use in connection with the Complainant's CCleaner software products, the Complainant has acquired trademarks for CCLEANER, registered in various jurisdictions throughout the world, as outlined in the rights section above. The Complainant also owns several domain names comprising its CCLEANER trademark, including <ccleaner.com>, <ccleanercloud.com>, <ccleanermac.com> and others.

The disputed domain name was registered on October 5, 2018. The disputed domain name resolves to a website purporting to offer the Complainant's CCleaner software for free download, together with unauthorized license keys and instructions on how to apply them (the "Respondent's website"). The Respondent's website contains detailed instructions on how to "crack" the Complainant's CCleaner software, as well as information about third-party optimization software of the Complainant's competitors.

PARTIES CONTENTIONS

Complainant:

The Complainant contends, in relevant part, as follows:

The Complainant submits that the disputed domain name is identical or confusingly similar to the Complainant's trademark. The Complainant asserts rights in the CCLEANER trademark. The Complainant notes that its CCLEANER trademark is entirely reproduced in the disputed domain name, as its first and dominant part. The Complainant asserts that the additional term "crack" is descriptive and refers to breaking into a computer system. The Complainant submits that the addition of the term "crack" does not change the overall impression of the disputed domain name, and does not eliminate the confusing similarity between the disputed domain name and the Complainant's trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant states that it has not granted any license or authorization for the Respondent to register or use the disputed domain name. The Complainant asserts that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services. Rather, the Respondent is using the Complainant's trademark to bait Internet users to its website, where competing software and unauthorized license keys for the Complainant's software are made available. The Complainant asserts that such activity represents illegal conduct on the part of the Respondent in the absence of authorization from the Complainant. The Complainant submits that the Respondent is not commonly known under the disputed domain name. The Complainant further claims that the Respondent is seeking to create a false impression of association with the Complainant, which does not amount to a legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant presents evidence of its reputation, including its software having been downloaded more than 2 billion times, as well as its strong presence online and on social media. The Complainant asserts that the Respondent clearly knew of the Complainant and its trademarks, noting that the Respondent's website makes explicit reference to the Complainant and its software. The Complainant asserts that the disputed domain name is being used solely for the illicit distribution of the Complainant's CCleaner software, crack files, unauthorized license keys, and competing optimization software. The Complainant states that it did not provide any authorization to the Respondent to distribute its software, and asserts that the Respondent's subsequent resale or further distribution violates both its End User License Agreement as well as applicable copyright laws. The Complainant notes that the CCleaner software purportedly offered by the Respondent is not under the Complainant's control, and may easily harm the Complainant's good reputation. The Complainant argues that the Respondent's bad faith is further evidenced by the lack of accurate contact information on its website.

The Complainant requests transfer of the disputed domain name.

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 trade mark 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 prevail in its Complaint, the Complainant must prove, on the balance of probabilities, that it has satisfied the requirements of paragraph 4(a) of the Policy:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in the disputed domain name; and

(iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights in the CCLEANER trademark by virtue of its registration and use, as set out in the rights and factual background sections above.

The disputed domain name incorporates the Complainant's CCLEANER trademark, together with the term "crack" as a suffix, under the generic Top-Level Domain (gTLD) ".info".

The Panel finds that the Complainant's CCLEANER trademark is easily recognizable in the disputed domain name as its leading element. The addition of the term "crack" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark; see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.8.

The addition of the gTLD ".info" is disregarded for the purposes of comparison under the first element, as it is a technical requirement of registration; see WIPO Overview 3.0, section 1.11.1.

The Panel finds the disputed domain name to be confusingly similar to the Complainant's CCLEANER trademark. The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has submitted evidence in the form of screen captures of the Respondent's website indicating that the Respondent is using the disputed domain name in connection with a website that purports to offer unauthorized versions of

the Complainant's CCleaner software, license keys for the Complainant's software, and information about products in direct competition with those of the Complainant.

Prior UDRP panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods, unauthorized account access, passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent; see WIPO Overview 3.0, section 2.13.

In the present case, the Panel finds that the Respondent's use of the disputed domain name, as described above, falls within such categories of behavior as those described in WIPO Overview 3.0, section 2.13. Notably, the Respondent purports to provide what are either pirated or counterfeit versions of the Complainant's software, as well as making available license keys for the Complainant's software, in violation of the terms of the Complainant's End User License Agreement. Evidently, such use of the disputed domain name does not represent a bona fide offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.

There is also no evidence to suggest that the Respondent is commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy, nor does the Panel consider that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name pursuant to paragraph 4(c)(iii) of the Policy.

The Respondent has not come forward with any evidence to rebut the Complainant's allegations or evidence.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registration and Use in Bad Faith

The Panel notes that the Complainant's CCleaner software was developed some 15 years prior to the registration of the disputed domain name, and has since then become widely used by PC users throughout the world. The Respondent's knowledge of the Complainant, its CCleaner software, and the Complainant's rights in the CCLEANER trademark can by readily inferred from the contents of the Respondent's website. The Panel further notes that the Respondent has made use of the disputed domain name to offer either pirated or counterfeit versions of the Complainant's software, together with license keys for use in connection with the Complainant's software, without authorization to do so from the Complainant.

Notwithstanding that the products made available on the Respondent's website are free, in the circumstances the Panel finds the Respondent's use of the disputed domain name to be disruptive to the commercial activities of the Complainant. In fact, the products purportedly offered via the Respondent's website are not regulated by the Complainant for quality, and may place the security of users at risk. Prior UDRP panels have consistently held that given that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith; see WIPO Overview 3.0, section 3.1.4.

For the foregoing reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith. The Panel finds that the Complainant has satisfied the requirements of 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. **CCLEANERCRACK.INFO**: Transferred

PANELLISTS

Name	**David Taylor**

2019-12-16

DATE OF PANEL DECISION 2019-12-16

Publish the Decision