Decision for dispute CAC-UDRP-102816

Case number	CAC-UDRP-102816
Time of filing	2019-12-12 10:16:45
Domain names	vinci-enregies.com

Case administrator

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

Complainant

Organization	VINCI S.A.

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Busy Brain

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 owns several trademarks, including the following relevant trademark registrations:

- the International trademark n° 817188 for the word mark “VINCI ENERGIES”, registered on July 2, 2003 for goods and services in classes 7, 9, 11, 12, 35, 37, 38, 39, 41 and 42; and

- the European Union trademark n° 003251774 for the word mark “VINCI ENERGIES”, registered on January 7, 2005, for goods and service in classes 7, 9, 11, 12, 35, 37, 38, 39, 41 and 42.

Such trademarks are hereinafter individually and jointly referred to as the "VINCI ENERGIES" trademarks.

FACTUAL BACKGROUND

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

The Complainant is a leading player in concessions and construction, operating in some 100 countries. In 2017, with around

194,000 employees and 3,000 business units, its revenue amounted to 40,2 billion euros. As a part of the VINCI GROUP, VINCI ENERGIES focuses on connections, performance, energy efficiency and data to fast-track the rollout of new technologies and support two major changes: the digital transformation and the energy transition.

The Complainant alleges that this is a clear case of typosquatting, as the disputed domain name contains an obvious misspelling of the Complainant's trademark. Besides, the Complainant contends that the disputed domain name is confusingly similar to its trademark VINCI ENERGIES. This is a clear case of typosquatting. This practical is considered as a hallmark of bad faith according to Paragraph 4(a) (iii) of the Policy.

Furthermore, the website in connexion with the disputed domain name is inactive. However, there are several active MX records connected to the disputed domain name, which enables the Respondent to send emails using an email address that contains the disputed domain name.

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

1. The Panel finds that the disputed domain name is confusingly similar to the "VINCI ENERGIES" trademarks as the difference between such trademarks and the disputed domain name is the switch of the letters "E" and "R" on the third and fourth position of the second element of the "VINCI ENERGIES" trademarks which is insignificant to the overall impression.

2. The Panel finds that the Complainant successfully submitted evidence that the Respondent has made no use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is Respondent making a legitimate non-commercial or fair use of the disputed domain name, nor is Respondent commonly known under the disputed domain name. The Panel finds that the Complainant successfully demonstrated that the disputed domain name represents an example of typosquatting. The evidence was not challenged by the Respondent.

3. In the absence of a Response, and given that neither "VINCI ENERGIES" (in the Complainant's trademarks) nor "VINCI ENREGIES" (in the disputed domain name) are a dictionary and/or commonly used term, the Panel infers that the Respondent had the Complainant's "VINCI ENERGIES" trademarks in mind when registering the disputed domain name, which was therefore registered in bad faith. Further, even though the disputed domain name is presently only passively held, it is a clear case of cybersquatting and the Panel finds that the disputed domain name has been used in bad faith as it is inconceivable that the Respondent has any intention to use the disputed domain name for a bona fide offering of goods or services or any other bona fide use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **VINCI-ENREGIES.COM**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2020-01-15

Publish the Decision