Decision for dispute CAC-UDRP-102852

Case number	**CAC-UDRP-102852**
Time of filing	**2020-01-10 09:38:19**
Domain names	**vivendi-x.com**

Case administrator

Name	**Šárka Glasslová (Case admin)**

Complainant

Organization	**VIVENDI**

Complainant representative

Organization	**Nameshield (Laurent Becker)**

Respondent

Organization	**southcompanypty**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

According to the evidence submitted by Complainant, Complainant is the owner of multiple trademarks including the International trademark VIVENDI, number 930935, date of registration 22 September 2006.

FACTUAL BACKGROUND

According to the information provided Complainant is a French multinational mass media conglomerate headquartered in Paris. The company has activities in music, television, film, video games, telecommunications, tickets and video hosting service.

The disputed domain name <vivendi-x.com> was registered on 1 January 2020.
The disputed domain name is used in connection with a pay-per-click website with automatically generated listings.
The trademark registrations of Complainant have been issued prior to the registration of the disputed domain name.

According to Complainant the disputed domain name is confusingly similar to its trademark VIVENDI. The trademark is included in its entirety. The addition of the dash “-” and the letter “x” in the disputed domain name is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Complainant submits that Respondent is not affiliated with nor authorized by Complainant in any way. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted to Respondent to make any use of Complainant's trademarks, or apply for registration of the disputed domain name. Furthermore, the disputed domain name points to a parking page with commercial links in relation with Complainant and its competitors.

According to Complainant the disputed domain name is registered in bad faith. Given the distinctiveness of Complainant's trademarks and its reputation, it is reasonable to infer that Respondent has registered the disputed domain name with full knowledge of Complainant's trademarks. Complainant contends that Respondent attempts to disrupt Complainant's business and attract, for commercial gain, users to the resolving website which features click-through advertisements that redirect users to Complainant's competitors. Using a confusingly similar domain name to disrupt a complainant's business and commercially benefit via competing pay-per-click links can evidence bad faith registration and use.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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 the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademarks (within the meaning of paragraph 4 (a)(i) of the Policy). Many UDRP decisions have found that a domain name is confusingly similar to a complainant's trademark where the domain name incorporates the complainant's trademark or the principal part thereof in its entirety. The International trademark of Complainant predates by many years the registration date of the disputed domain name. Complainant's trademark VIVENDI is incorporated in the disputed domain name in its entirety. The top-level domain "com", and the addition of the generic letter "x" and the hyphen "-" may be disregarded.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademarks or to register the disputed domain name incorporating its marks. Respondent is not making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademarks of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. Respondent did not submit any response. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name (within the meaning of paragraph 4 (a)(ii) of the Policy).

The Panel finds that 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). The trademarks of Complainant have been existing for a long time and are well-known. Respondent knew or should have known that the disputed domain name included Complainant's trademarks.
The Panel notes the undisputed submission of Complainant that the disputed domain name resolves to a website with automatically generated pay-per-click links leading to various websites, including websites of competitors of Complainant. The fact that such links may be generated automatically does not prevent a finding of bad faith. The Panel further notes that the disputed domain name incorporates Complainant's well-known trademark in its entirety, which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant 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. **VIVENDI-X.COM**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2020-02-13

Publish the Decision