Decision for dispute CAC-UDRP-102882

Case number	**CAC-UDRP-102882**
Time of filing	**2020-01-28 11:13:46**
Domain names	**vivendiclassaction.com**

Case administrator

Name	**Šárka Glasslová (Case admin)**

Complainant

Organization	**VIVENDI**

Complainant representative

Organization	**Nameshield (Enora Millocheau)**

Respondent

Name	**Milen Radumilo**

OTHER LEGAL PROCEEDINGS

None of which the Panel is aware.

IDENTIFICATION OF RIGHTS

Various trade marks the either incorporate of comprise the term "Vivendi", including international trade mark no 0687855 dated 23 February 1998 (based upon an earlier French registration) for the work mark VIVENDI in classes 9, 35, 36, 37, 38, 39, 40, 41 and 42 which has proceeded to registration in over 40 territories.

FACTUAL BACKGROUND

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

The 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. With 44,142 employees in 78 countries, the Complainant’s total revenues amounted to €13,932 million worldwide in 2018.

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

The disputed domain name <vivendiclassaction.com> (the "Domain Name") was registered on 20 January 2020 and

redirects to a parking page with commercial links. It has also been offered for sale on the afternic website for USD 9,888.

The Respondent has been involved in numerous UDRP proceedings as the Registrant of third-party trade marks. Examples include WIPO Case No. D2019-2781, BAZARCHIC v. Milen Radumilo; WIPO Case No. D2019-2541 Association des Centres and Lec v. Perfect Privacy, LLC / Milen Radumilo and CAC Case No. 102693, Piriform Software Limited v. Milen Radumilo.

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

The Complainant has demonstrated that it has registered trade mark rights in the term Vivendi. The only sensible reading of the Domain Name is that the words "Vivendi", "Class" and "Action" in combination with the ".com" top level domain.

It follows from this that the Complainant's mark is clearly recognisable in the Domain Name and that the Complainant thereby holds a mark that is "confusingly similar" to the Domain Name as that term is understood under the UDRP. In this respect see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the “WIPO Overview 3.0”). The Complainant has therefore made out the requirements of paragraph 4(a)(i) of the UDRP.

The Complainant has also satisfied the Panel on the balance of probabilities that the Respondent registered the Domain Name because of its associations with the Complainant's business and marks and with the primary purpose of selling it to the Complainant or a competitor of the Complainant because of that association for more than the Respondent's out of pocket costs. The reasons for this include the facts that the Domain Name has not been for an active website other than a parking page, the Domain Name has been offered for sale online for a sum just under USD 10,000 and the Respondent has been involved in a large number of cases the UDRP in which he registered domain names that incorporated the trade marks of others and where the panel held that the registration fell foul of the UDRP. There is no right or legitimate interest in registering and holding a domain name for that purpose and this activity falls with the scope of the example of circumstances that may evidence bad faith set out in paragraph 4(b)(i) of the UDRP.

There is a slight complication in this case in that the words "class action" that form part of the Domain Name raise a question as to whether the Domain Nome might have been registered or held by someone other than the Complainant for some legitimate purpose. In this respect the Panel observes that a simple internet search suggests that the Complainant was at one time involved in class action litigation in the United States. However, no argument or evidence in this respect has been advanced by the Respondent and the Domain Name has not been used in a way that suggests that the Domain Name

was registered for such a purpose.

In the circumstances, the Complainant has made out the requirements of paragraph 4(a)(ii) and (iii) of the UDRP.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **VIVENDICLASSACTION.COM**: Transferred

PANELLISTS

Name	**Matthew Harris**

DATE OF PANEL DECISION 2020-03-09

Publish the Decision