Decision for dispute CAC-UDRP-102873

Case number	CAC-UDRP-102873
Time of filing	2020-01-23 10:00:52
Domain names	clteos.com

Case administrator

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

Complainant

Organization	VINCI ENERGIES

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Admin Glorious

OTHER LEGAL PROCEEDINGS

There are no other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

European trademark CITEOS® n° 2916336 registered since November 4, 2002 and the French trademark CITEOS ® n° 3251774 registered since September 4, 2002.

FACTUAL BACKGROUND

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

The Complainant is the owner of several trademark containing the term “CITEOS”, such as the European trademark CITEOS® n° 2916336 registered since November 4, 2002 and the French trademark CITEOS ® n° 3251774 registered since September 4, 2002. The disputed domain name <clteos.com> was registered on November 18, 2019 and is inactive.

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).

The substitution of letter “i” by “l” in the trademark CITEOS® is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark and branded goods CITEOS®.

This is a clear case of typosquatting, as the disputed domain name contains an obvious misspelling of the Complainant’s trademark. Previous panels have found that the slight spelling variations does not prevent a domain name from being confusing similar to the complainant’s trademark.

See CAC n° 102227 VINCI S.A. v. Susan Patrick (“The similarity is apparent especially in consideration of the visual similarity between the letter "L" or "l" (lowercase version) and the number 1. The Panel cites WIPO Case No. D2012-0212 Olayan Investments Company v. Janice Carver <O1AYAN.COM> and CAC Case No.101688 ArcelorMittal SA vs Cimpress Schweiz GmbH <ARCELORMITTA1.COM>. In both cases the Panels concluded that the replacement of the letter L with the number 1 is not sufficient to escape the finding that the disputed domain name is confusingly similar to the previous trademark and that said replacement has to be considered as typosquatting”.

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).

According to the WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark CITEOS®, or apply for registration of the disputed domain name <clteos.com> by the Complainant.

Moreover, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark CITEOS®. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users’ typographical errors and can be evidence a Respondent lacks rights and legitimate interests in the domain name.

Please see for instance NAF Case No. 1765498, Spotify AB v. The LINE The Line / The Line (“The Panel finds that Respondent’s registration of the domain name is typosquatting and indicates it lacks rights and legitimate interests in the domain name per Policy 4(a)(ii).”).

Furthermore, the disputed domain name is inactive. Therefore, the Respondent did not make any use of disputed domain name since its registration, and the Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

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). The Respondent has registered the domain name <clteos.com>, which is confusingly similar to Complainant's trademark CITEOS®, many years after Complainant had registered its trademarks.

Besides, the Complainant contends that the disputed domain name <clteos.com> is confusingly similar to its trademark

CITEOS®. This is a clear case of typosquatting. This practical is considered as a hallmark of Policy 4(a) (iii) bad faith. Please see NAF Case No. 157321, Computerized Sec. Sys., Inc. v. Bennie Hu ("The Panel finds that Respondent's registration and use of a domain name that differs from Complainant's mark by only one letter indicates "typosquatting", which is evidence of bad faith registration and use.").

Furthermore, the website in connexion with the disputed domain name <clteos.com> is inactive). However, there are several active MX records connected to the disputed domain name, which enables the Respondent to send e-mails using an e-mail address that contains the disputed domain name. See similar case WIPO Case No. D2019-2371 Marlink SA v. Obabko Nikolay Vladimirovich ("Albeit that there are no concrete examples of such use, it seems inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address. The Panel notes in this connection that passive holding of a domain name does not prevent a finding of bad faith use under paragraph 4(a)(iii) of the Policy. See section 3.3 of WIPO Overview 3.0 and Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003.").

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 Respondent has registered the domain name <clteos.com>, which is confusingly similar to Complainant's trademark CITEOS®, many years after Complainant had registered its trademarks.The Panel notes in this connection that passive holding of a domain name does not prevent a finding of bad faith use under 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. **CLTEOS.COM**: Transferred

PANELLISTS

Name	**Thomas Hoeren**

DATE OF PANEL DECISION 2020-02-16

Publish the Decision