Decision for dispute CAC-UDRP-103133

Case number	CAC-UDRP-103133
Time of filing	2020-06-23 11:02:22
Domain names	cstar.digital

Case administrator

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

Complainant

Organization	CSTAR

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Varma Bhupatiraju

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any pending or decided legal proceedings which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant relies on its rights in the CSTAR trademark and service mark as owner of the trademark and service mark registrations described below.

FACTUAL BACKGROUND

The Complainant, CSTAR, as a subsidiary of the GROUP CANAL +, is the holder of the broadcasting authorizations and concessions granted by the Superior Council of Audiovisual or the French television channel CSTAR and the Group's musical channel.

The Complainant owns the following trademark registrations:

- French registered trademark C STAR (marque semi figurative), registration number 4294473, registered since August 23, 2016 for goods and services in classes 9, 14, 16, 28, 34, 38, 41 and 42; and

- International trademark registration C STAR (figurative), registration number 1359801, registered on February 13, 2017 designating MG, BX, CH, MC for goods and services in classes 9, 35, 38, 41,42.

Additionally, the Complainant owns several domain name <cstar.online> registered on March 27, 2020.

The disputed domain name <cstar.digital> was registered on April 16, 2020 and resolves to a parking page with commercial links.

There is no information available about the Respondent except for that provided in the Complaint and the Registrar's WhoIs.

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

This Panel accepts the Complainant's submissions that it has rights in the CSTAR trademark acquired through its ownership of the trademark and service mark registrations described above.

This Panel finds that the disputed domain name is identical to the trademark C STAR in which the Complainant has rights. The disputed domain name consists of the Complainant's CSTAR trademark in its entirety in combination with the gTLD ".digital" extension.

In the circumstances of this case the top level domain extension would be considered by Internet users as a technical necessity providing no distinguishing character to the disputed domain name.

The Complainant has made out a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name <cstar.digital>.

The Complainant submits that according to the information on the WhoIs database, the Respondent is not commonly known by the disputed domain name; the Respondent is not affiliated with nor authorized by the Complainant in any way and he is not related in any way to Complainant's business; neither licence nor authorization has been granted by the Complainant to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name; the screenshots of the website, to which the disputed domain name resolves, shows a parking page with commercial links and past panels held that such use does not amount to a bona fide offering of goods or services or legitimate non-commercial or fair use. Citing - Forum Case No. FA 970871, Vance Int'l, Inc. v. Abend (concluding that the operation of a pay-per-click website at a confusingly similar domain name does not represent a bona fide offering of goods or services or a legitimate noncommercial or fair use, regardless of whether or not the links resolve to competing or unrelated websites or if the

respondent is itself commercially profiting from the click-through fees).

It is well established that if Complainant makes out a prima facie case, the burden of production shifts to Respondent to prove his rights or legitimate interests in the disputed domain name. Respondent has failed to file any Response to the Complaint or provide any defence to Complainant's allegations and so has not discharged the burden. In the circumstances this Panel must find that on the balance of probabilities Respondent has no rights or legitimate interests in the disputed domain name. Complainant has therefore succeeded in the second element of the test in Policy 4(a)(ii).

This Panel accepts the Complainant's argument that it is implausible that the registrant of the disputed domain name <cstar.digital> was unaware of the Complainant's name, business and trademark when the disputed domain name was chosen and registered. The disputed domain name is identical to the Complainant's distinctive trademark C STAR; the Respondent has registered the disputed domain name several years after the registration of the trademark C STAR by the Complainant; prior to the registration of the disputed domain name the Complainant had established a strong reputation while using this trademark; and additionally the Complainant contends that the term "C STAR" does not have any signification, except in relation with the Complainant.

In such circumstances this Panel must find that on the balance of probabilities the disputed domain name was chosen and registered in bad faith to take predatory advantage of the Complainant's name, mark and reputation.

Additionally the screenshots of the website to which the disputed domain name resolves which have been adduced in evidence in an annex to the Complaint, illustrate that the Respondent is using the disputed domain name in bad faith as the address of a parking page with commercial links and therefore on the balance of probabilities the Respondent is either himself making, or permitting others to make, commercial gain by taking unauthorized advantage of the Complainant's reputation and goodwill by using the Complainant's trademark in an attempt to attract Internet users for commercial gain to the Respondent's own website.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith and the Complainant has therefore succeeded in the third element of the test in Policy 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CSTAR.DIGITAL**: Transferred

PANELLISTS

Name	**Mr James Jude Bridgeman**

DATE OF PANEL DECISION 2020-07-15

Publish the Decision