Decision for dispute CAC-UDRP-103325

Case number	**CAC-UDRP-103325**
Time of filing	**2020-10-12 16:49:44**
Domain names	**intrum.online, intrum.site, intrum.website**

Case administrator

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

Complainant

Organization	**Intrum Licensing AG**

Complainant representative

Organization	**BRANDIT GmbH**

Respondent

Name	**Davd Abernethy**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings, whether pending or decided, which relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant submitted evidence that it is the registered owner of the following registrations for the trademark "INTRUM" and "INTRUM JUSTITIA":

- the European Union Trademark No. 000306639 for the word "INTRUM", registered since- June 14, 1999 for the classes 35, 36 and 42; and

- the international trademark registration No. 1073788 for the word "INTRUM JUSTITIA", registered since February 9, 2011 for the classes 35, 36, 41 and 45, designating numerous countries including those in Asia.

The Complainant further provided a list of 25 trademark registrations in total for words and logos containing the designations "INTRUM" and "INTRUM JUSTITIA" that have been registered throughout the world.

The Complainant also registered domain names containing the term "INTRUM", namely <intrum.com> (created on 1996-04-

08) and <intrum.group> (created on 2016-05-31).

FACTUAL BACKGROUND

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

The Complainant is Europe's undisputed market-leading credit management company, which has a complete range of credit management and financial services with a strong base in collection operations. The company was founded in 1923 as a family business in Stockholm, where the headquarters are still located today. The Complainant employed around 10,000 people in 25 countries in 2019 and serves around 100,000 customers across Europe. It has been listed on the Stockholm Nasdaq since 2002.

The disputed domain names <intrum.online>, <intrum.site> and <intrum.website> were all registered on July 16, 2020.

The Registrar confirmed that the Respondent is the current registrant of the disputed domain names and that the language of the registration agreement is English.

The Respondent has not filed any Response. CAC is unaware of whether written notice of the Complaint has been received by the Respondent. However, email notices sent to available email addresses of the Respondent were all successfully relayed. The Respondent never accessed the online platform.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

THE COMPLAINANT MADE THE FOLLOWING CONTENTIONS:

The disputed domain names incorporate the Complainant's registered trademark INTRUM in its entirety. The addition of the gTLD ".online" / ".site" / ".website" does not add any distinctiveness to the disputed domain names. Therefore, the disputed domain names should be considered as identical to the trademark INTRUM.

The Complainant has never granted the Respondent any right to use the INTRUM trademark within the disputed domain names, nor is the Respondent affiliated to the Complainant in any form.

The Complainant has not found that the Respondent is commonly known by the disputed domain names or that it has interest over the disputed domain names. When entering the term "intrum" in the Google search engine, the returned results all pointed to the Complainant and its business activity. The Respondent could have easily performed a similar search before registering the disputed domain names and would have quickly learned that the trademarks are owned by the Complainant and that the Complainant has been using its trademarks in Europe. The Complainant argues that the Respondent clearly knew about the Complainant and its trademarks and/or should have known about the Complainant and its trademarks when it registered the disputed domain names.

According to the Registrar Verification, the Respondent is named "Davd Abernethy" which is not related to the Complainant nor to the term "Intrum" in any way.

By the time the Complainant prepared this Complaint on September 29, 2020, the Respondent used the disputed domain names to redirect to the Complainant's UK official website https://www.intrum.co.uk/ It is blatant that the Respondent's intention is to mislead Internet users into believing that the disputed domain names are related to or authorized by the Complainant, especially when the Complainant itself operates its official websites using domain names composed by "Intrum" plus gTLD or ccTLD, e.g. intrum.group, intrum.co.uk, and intrum.com. The use of domain names identical to the trademark INTRUM and the redirection is a clear indication of bad faith and therefore shows no legitimate interest or bona fide offering of goods or services.

The Complainant draws the Panel's attention that the nature of the use of the disputed domain names is to impersonate the Complainant.

Considering the above, the intention of the Respondent's use of the disputed domain names is to take advantage of the reputation of the trademark of the Complainant. The Respondent has no right nor legitimate interest in respect of the disputed domain names and has not been using the disputed domain names for any bona fide offering of goods or services.

It should be highlighted that the registration of the Complainant's trademarks predates the registration of the disputed domain names and the Respondent has never been authorized by the Complainant to register the disputed domain names. It follows that the use of the trademark INTRUM in the disputed domain names is a deliberate and calculated attempt to improperly benefit from the Complainant's rights. The Respondent has failed in presenting a credible evidence-backed rationale for registering the disputed domain names.

The Respondent has been using the disputed domain names to redirect to the Complainant's UK official website. Referring to the WIPO Overview 3.0 (paragraph 3.1.4), the Complainant contends that such behavior is manifestly considered evidence of bad faith "… insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant".

The Respondent has registered three domain names identical to the Complainant's distinctive trademark INTRUM, such registration constitutes a pattern of conduct that prevents a trademark holder from reflecting its mark in a domain name.

The Complainant has tried to reach the Respondent by a cease-and-desist letter sent on September 7, 2020. As the registrant was under privacy shield, the Complainant sent the cease-and-desist letter to privacy emails as provided in the WHOIS for the disputed domain names. However, until the time the Complainant prepared this Complaint, it has not received any response from the Respondent. The Respondent's non-response to the cease-and-desist letter infers bad faith use of the disputed domain names, as decided in earlier CAC cases.

The disputed domain names are registered under a privacy shield. The Complainant considers such behavior as for the purpose to hide the registrant's identity, which contributes to the proof of bad faith.

Consequently, the Respondent should be considered to have registered the disputed domain names identical to the Complainant's well-known, distinctive trademark INTRUM. The Complainant has not found that the Respondent is of any legitimate right or interest in using the disputed domain names, but rather registered and has been using the disputed domain names in bad faith.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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 is a mandatory administrative proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the CAC Supplemental Rules.

Paragraph 15 of the Rules provides that the Panel shall decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

According to Paragraph 4(a) of the Policy, a complainant must prove each of the following: (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; (ii) the respondent has no rights or legitimate interests in respect of the domain name; (iii) the domain name has been registered and is being used in bad faith.

A. Identical or confusingly similar domain name

The Complainant demonstrated that it owns the asserted trademark registrations for the word marks "INTRUM" and "INTRUM JUSTITIA" which were registered long before the registration of the disputed domain names by the Respondent. It is well established that a nationally or regionally registered trademark confers on its owner sufficient rights to satisfy the requirement of having trademark rights for the purposes of standing to file a UDRP case. Therefore, the Panel finds that the Complainant has established such rights.

It is also well established that the generic top-level suffix may be disregarded when considering whether a disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights, as it is a necessary technical requirement of a domain name. This is true also for the so-called new generic top-level suffixes. Indeed, it has been repeatedly held in numerous UDRP cases that gTLDs such as ".online", ".site" and ".website" have no distinctive character (see for example recent CAC Cases No. 103323, 103114 and 102865) and would most likely be disregarded by web users, especially given that these words are descriptive for use on the Internet.

All three disputed domain names incorporate the Complainant's trademark "INTRUM" in its entirety. It is therefore easy for the Panel to find that the disputed domain names are identical to the trademark in which the Complainant has rights.

B. Lack of rights or legitimate interests

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

In particular, the Respondent is not in any way connected with the Complainant nor is it authorized to use the Complainant’s trademarks for its commercial activities. In addition, the Respondent is not commonly known by the disputed domain names pursuant to Paragraph 4(c)(ii) of the Policy. Furthermore, it was demonstrated by evidence submitted by the Complainant that the disputed domain names have not been used for a bona fide offering of goods or services or a legitimate non-commercial or fair use, but rather redirected to the Complainant’s UK official website.

Considering the facts of this case, it seems obvious to the Panel that the Respondent knew (or should have known) about the Complainant and its trademarks when it registered the disputed domain names.

The Panel, therefore, finds that the Respondent has no rights or legitimate interest in the disputed domain names.

C. Registration and use of the disputed domain names in bad faith

With respect to the bad faith argument, the Complainant states, in summary, that: (a) the registration and use of the disputed domain names is a deliberate and calculated attempt of the Respondent to improperly benefit from the Complainant's rights; (b) the Respondent knew or must have known about the Complainant and its trademarks; (c) the disputed domain names are identical to the trademarks; (d) the registration of all three disputed domain names follows a pattern of abusive registrations; (e) the Respondent has failed to present credible evidence-backed rationale for registering the disputed domain names; (f) the disputed domain names redirect to Complainant's website; (g) the Respondent failed to respond to the Complainant's cease and desist letter; (h) the Respondent used registration under privacy shield to hide its identity.

The Panel has already found that the disputed domain names are identical to the Complainant's trademark "INTRUM". It is well established that mere registration of a domain name that is confusingly similar to a trademark by an unaffiliated entity can lead to the presumption of bad faith.

In addition, the Panel finds that the Complainant submitted evidence sufficiently demonstrating that the Respondent must have (or should have) been aware of the existence of the Complainant, its trademarks, and its domain names. It is difficult to conceive that the Respondent would have no prior knowledge of the Complainant and it is equally difficult to find any good faith reason for the registration of the disputed domain names by the Respondent. The fact that the disputed domain names redirect to one of the Complainant's official websites clearly shows that the Respondent must have been aware of the Complainant and its rights.

The Panel notes that the absence of response to the cease and desist letter can hardly be attributed to the Respondent's bad faith as it was not sent to the Respondent. That said, the Panel believes that all other arguments and submitted evidence relating to the Respondent's bad faith as summarized above have merit and the Panel, therefore, finds there are several signs of bad faith in registering and use of the disputed domain names by the Respondent.

Therefore, the Panel holds that the disputed domain names have been registered and have been used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INTRUM.ONLINE**: Transferred
2. **INTRUM.SITE**: Transferred
3. **INTRUM.WEBSITE**: Transferred

PANELLISTS

Name	**Mgr. Vojtěch Chloupek**

DATE OF PANEL DECISION 2020-11-22

Publish the Decision