Decision for dispute CAC-UDRP-103310

Case number	**CAC-UDRP-103310**
Time of filing	**2020-09-23 11:32:09**
Domain names	**skodaonline.com**

Case administrator

Name	**Olga Slanařová (Case admin)**

Complainant

Organization	**ŠKODA AUTO a.s.**

Complainant representative

Name	**JUDr. Jiří Čermák advokát**

Respondent

Organization	**Nombre Administracion**

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

Complainant's Rights:

i. The international (WIPO) verbal trademark ŠKODA, Reg. No. 144637A, registered for goods in int. class 12, registration date December 23, 1949;

ii. The international (WIPO) verbal trademark ŠKODA, Reg. No. 197564D, registered for goods in int. class 7 and 12, registration date December 24, 1956;

iii. The international (WIPO) verbal trademark ŠKODA, Reg. No. 991107, registered for goods and services in int. class 12, 35 and 36, registration date October 15, 2008;

iv. The international (WIPO) verbal trademark ŠKODA, Reg. No. 1265214, registered for goods in int. class 4, registration date May 4, 2015.

FACTUAL BACKGROUND

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

The Complainant in these proceedings is the largest automobile manufacturer in the Czech Republic, with a tradition of more than 120 years. The disputed domain name was registered on September 26, 2020 and resolves to a website offering links to various third party conctent, including content relating to cars and automobile parts.

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 disputed domain name <skodaonline.com> consists of the verbal trademark “ŠKODA,” (having in mind that "š" is replaced with "s" since the domain name system does not support Czech diacritics) and thus incorporates distinctive verbal element of Complainant's trademarks. The suffix “online” does not have any distinctive meaning in the given case, as it is merely a clarification of the online type of services or content. This therefore cannot prevent the association in the eyes of internet consumers between the disputed domain name and the Complainant’s trademarks and thus the likelihood of confusion still exists. To conclude, addition of a non-distinctive term cannot sufficiently distinguish the disputed domain name from the Complainant’s trademarks.

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., a 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 UDRP.

The Respondent is in no way affiliated to the Complainant or any company belonging to the same group as the Complainant and has no rights to Complainant's trademarks or any other rights that would entitle the Respondent to register the disputed domain name. At the same time, neither the Complainant nor any of the companies in the Complainant’s group have granted any license to the Respondent to use Complainant's trademarks or other intellectual property belonging to the Complainant.

Furthermore, the Respondent is not known under the designations of “Skoda” or “Škoda.” Searching for the phrase “skoda” in an Internet search engine does not turn up a single reference with respect to the Respondent.

The Respondent uses the disputed domain name for providing (likely automatically created) website with links to various third party websites concerning (inter alia) cars and services related to cars. The disputed domain name website also reads "This domain may be for sale."

The Respondent cannot be held to have a legitimate interest in the registration of thedisputed domain name, which it would plan to use for its own business purposes in the near future or under which it would be commonly known.

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).

As it has been ruled in many similar cases, as for example Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org>, Jupiters Limited v. Aaron Hall, WIPO Case No. D2000-0574, <jupiterscasino.com>, Ladbroke

Group Plc v. Sonoma International LDC, WIPO Case No. D2002-0131, <ladbrokespoker.com>) that the apparent lack of so-called genuine active use (e.g. to resolve to a website) of the domain name(s) without does not as such prevent a finding of bad faith.

In addition, it is clear that by adding a generic term "ONLINE" while all other characters of the disputed domain name are identical to the Complainant trademarks, it was Respondent's intention to target Internet users and confuse them about origin of the disputed domain name or its affiliation to the Complainant or his business. There are several different reasons for such activity, as for example:

- to try to sell the disputed domain name back to the Complainant;
- as a phishing scheme to mimic the Complainant's site, while intercepting passwords or other information which the visitor enters unsuspectingly;
- To install drive-by malware or revenue generating adware onto the visitors' devices;
- To harvest misaddressed e-mail messages mistakenly sent to the typo domain.

All of the activities above are considered as malicious activities.

Also, the Respondent offers the disputed domain name to sale by stating at the domain name website clearly "This domain may be for sale.".

To conclude, (i) there is only a remote chance that the Respondent has registered the disputed domain name just by a chance and without having a knowledge about the existence of the Complainant's rights and business, (ii) there is no genuine use of the dispute domain name, and (iii) the Respondent has been offering the disputed domain name for sale.

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 disputed domain name is confusingly similar to the Complainant's trademarks under paragraph 4(a)(i) of the UDRP. The Respondent is in no way affiliated to the Complainant or any company belonging to the same group as the Complainant and has no rights Complainant's trademark.The domain name has been registered and is being used in bad faith based on a registration of a well-known/famous trade mark correspondingly holding the domain name for purposes of selling, licensing or renting.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SKODAONLINE.COM**: Transferred

PANELLISTS

Name	**Thomas Hoeren**

DATE OF PANEL DECISION 2020-12-19

Publish the Decision