Decision for dispute CAC-UDRP-103465

Case number	CAC-UDRP-103465
Time of filing	2020-12-17 09:28:36
Domain names	cstar.xyz

Case administrator

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

Complainant

Organization	CSTAR

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Aix nil

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

The Complainant is, inter alia, registered owner of the following trademarks containing a word element "C STAR":

- C STAR (figurative), International (WIPO) Trademark, application and registration date 13 February 2017, trademark application no. 1359801, registered for goods and services in classes 09, 35, 38, 41, and 42;

- besides other national trademarks consisting of the "C STAR" denomination.

(collectively referred to as "Complainant's trademarks").

The Complainant also owns numerous domain names under various TLDs consisting of the "CSTAR" denomination or incorporating the same.

FACTUAL BACKGROUND

COMPLAINANT:

The Complainant, CSTAR, as a subsidiary of the GROUP CANAL +, is a holder of the broadcasting authorizations and concessions granted by the Superior Council of Audiovisual (“CSA”) for the French television channel CSTAR, and the group’s musical channel.

DISPUTED DOMAIN NAME:

The disputed domain name <cstar.xyz> was registered on 15 October 2020 and is held by the Respondent.

The domain name website (i.e. website to which the disputed domain name resolves) resolves to an inactive online shop.

The Complainant seeks transfer of the disputed domain name to the Complainant.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

The Parties' contentions are the following:

COMPLAINANT:

CONFUSING SIMILARITY

The Complainant states that the disputed domain name is confusingly similar to Complainant's trademarks as the disputed domain name contains the Complainant's trademarks in its entirety.

The addition of the generic Top-Level Domains (gTLD) “.XYZ” does not add any distinctiveness to the disputed domain name.

The Complainant refers to previous domain name decisions regarding similarity and identity of the disputed domain name and Complainant's trademarks.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent has not been commonly known by the disputed domain name. Neither the Complainant has authorized, permitted or licensed the Respondent to use its trademarks in any manner.

The Respondent has no connection or affiliation with the Complainant whatsoever. On this record, Respondent has not been commonly known by the disputed domain name so as to have acquired rights to or legitimate interests in it.

Disputed domain name resolves to a website that offers third party products, not originating from the Complainant.

The Complainant refers to previous domain name decisions in which panels have recognized that no rights or legitimate interest derive from use of another’s trademark in an attempt to exploit such trademark’s goodwill (in order to mislead and attract Internet users and then offer them third-party products).

BAD-FAITH REGISTRATION AND USE

The Complainant contends that the Respondent by registering and using the disputed domain name has intentionally attempted to attract Internet users by creating a deliberate likelihood of confusion with the Complainant's Trademarks for the sole purpose of generating traffic on the domain name website.

The Complainant presents the following evidence which has been assessed by the Panel:

- Information about the Complainant and its business;

- Excerpts from various trademark databases regarding Complainant's trademarks;

- Excerpts on the disputed domain name from WHOIS database;

- Screenshots of the disputed domain name website.

RESPONDENT:

The Respondent has not provided any response to the complaint.

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

RIGHTS

The disputed domain name and the Complainant’s trademarks are identical.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the confusing similarity test, as it is a necessary technical requirement of registration.

Therefore, the Panel has decided that there is identity in this case, it also concludes that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

Based on general Internet search, the Respondent is not commonly known by the disputed domain name.

Moreover, use of the disputed domain name in connection with the online shop available on the domain name website is not in any way related to the CSTAR brand or the Complainant, it does not offer to sale any CSTAR branded products or services (in fact, it offers no products or services at all) and it is just an "empty shell" created likely using standard e-shop templates.

Consequently, the evidentiary burden shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. However, the Respondent failed to provide any information and evidence that it has relevant 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 Panel finds it grounded that the Respondent registered and used the disputed domain name in bad faith, namely to attract, for commercial gain, Internet users to the disputed domain name website by creating a likelihood of confusion with the Complainant's trademarks to the source, sponsorship, affiliation, or endorsement of the disputed domain name website.

For the reasons described above and since the Respondent failed to provide any explanation in this regard, the Panel contends, on the balance of probabilities, that the disputed domain name has been registered and is being used by the Respondent in bad faith (within the meaning of 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. **CSTAR.XYZ**: Transferred

PANELLISTS

Name	**JUDr. Jiří Čermák**

DATE OF PANEL DECISION 2021-01-22

Publish the Decision