

## Decision for dispute CAC-UDRP-103517

Case number CAC-UDRP-103517

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Time of filing 2021-01-29 09:28:22

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Domain names ccleanerpro.site

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### Case administrator

Organization Denisa Bilík (CAC) (Case admin)

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### Complainant

Organization Piriform Software Limited

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### Complainant representative

Organization Rudolf Leška, advokát

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### Respondent

Name Andrej M Smirnov

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#### 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.

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#### IDENTIFICATION OF RIGHTS

Piriform Software Limited is the owner, among others, of the following trademark registrations related to CCLEANER:

- EU Registration "CCLEANER" no. 007562002 for class 9 filed on January 30, 2009;
  - EU Registration "CCLEANER" no. 015100803 for classes 9 and 42 filed on February 11, 2016;
  - UK Registration "CCLEANER" no. 2486623 for class 9 filed on May 2, 2008;
  - US Registration "CCLEANER" no. 5099044 for classes 9 and 42 filed on February 25, 2016;
  - US Registration "CCLEANER" no. 3820254 for class 9 filed on March 6, 2009.
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#### FACTUAL BACKGROUND

The Complainant informs that Piriform Software Limited provides to its customers one of the world most popular PC optimization software named "CCleaner" which protects their privacy and makes their computers faster and more secure. This award-winning optimization tool, according to the Complainant, was released in 2004 and has been already downloaded more than two and a half billion times. The Complainant states to be well known on the market globally as a reliable company with long history which develops software tools, provides excellent technology and amazing service for customers

and business.

The Complainant has proved to be the owner of numerous trademark registrations for CCLEANER with effects in different countries. Furthermore, the Complainant owns numerous domain names including "ccleaner", such as <ccleanercloud.com>, <ccleaner.cloud>, <ccleanerformac.com> and <ccleanermac.com>.

The Complainant notes that the domain name in dispute <ccleanerpro.site>, was created on October 10, 2020.

It is the Complainant's view that the domain name registered by the Respondent <cleanerpro.site> is highly similar to the Complainant's older trademark since (i) CCLEANER is entirely reproduced in the disputed domain name (ii) the only distinction between the dispute domain name and the Complainant's mark is the added part "pro" which is clearly a descriptive wording (iii) the specific top level of a domain is not relevant for the purpose of determining the identity or similarity of a domain name and a trademark.

The Complainant also observes that there does not exist any evidence that the Respondent has been commonly known within the consumers by the disputed domain name nor that the Respondent owns any trademark identical/similar to CCLEANER. Furthermore, the Complainant informs that any license or authorization to register or use the disputed domain name was never granted to the Respondent by the Complainant.

According to the Complainant, the domain name in dispute was registered with the full knowledge of the Complainant's trademark CCLEANER and, therefore, in bad faith. The Complainant notes, with reference to the website under the disputed domain name, that it automatically redirects its visitors to a parking page including also embedded links leading to other websites, articles, videogames etc. where such redirection of traffic is very likely monetized. Therefore, it is the Complainant's view that the Respondent uses the disputed domain name to seek commercial gain.

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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#### 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).

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#### 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).

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#### 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).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

Paragraph 4(a) of the Policy provides that to obtain the transfer of the disputed domain name, the Complainant must prove that each of the following elements is present:

(i) the disputed 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 disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

1) The Panel finds that the disputed domain name <ccleanerpro.site> is confusingly similar to the Complainant's trademark CCLEANER. Many Panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see, among others, Chubb Security Australia PTY Limited v. Mr. Shahim Tahmasebi, WIPO Case No. D2007-0769; Société Air France v. Virtual Dates, Inc., WIPO Case No. D2005-0168 and Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale, WIPO Case No. D2000-0662). This is the case in the present situation where the Complainant's registered trademark CCLENER is fully included in the disputed domain name. Moreover, it consists of the trademark CCLEANER followed by the term "pro" which is not prima facie distinctive as to distinguish the disputed domain name from Complainant's trademark (see Durst Phototechnik AG v. Jens Jensen, WIPO Case No. D2010-0373 and Blogmusik SAS v. leo viet, WIPO Case No. D2015-0649). The gTLD ".site" may not be taken into account in order to evaluate the identity or similarity between the disputed domain name and the Complainant's trademark since the use of a gTLD is technically required to operate the disputed domain name and it does not serve to identify the source of the goods or services provided by the registrant of the disputed domain name (see for instance Statoil ASA v. Martins Ogemdi, WIPO Case No. D2015-0001). The Complainant therefore succeeds on the first element of the Policy.

2) The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and was never authorized to use the CCLEANER trademark by the Complainant. The Respondent, in the absence of any Response, has not shown any facts or element to justify prior rights or legitimate interests in the disputed domain names. The Complainant therefore succeeds on the second element of the Policy.

3) Paragraph 4(b) of the UDRP Policy sets out the following examples of circumstances that will be considered by an Administrative Panel to be evidence of the bad faith registration and use of a domain name:

- (i) circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the domain name registrant's out-of-pocket costs directly related to the domain name; or
- (ii) the domain name was registered in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the domain name registrant has engaged in a pattern of such conduct; or
- (iii) the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the domain name registrant intentionally attempted to attract for financial gain, Internet users to the registrant's website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location.

The above examples are not exclusive and other circumstances may exist that demonstrate the registration and use of a domain name in bad faith.

As to the registration of the disputed domain name in bad faith, the reputation of the Complainant's trademark is such that, in the Panel's view, the Respondent could not ignore the trademark CCLEANER at the time of the registration of <ccleanerpro.site>. Furthermore, there is no evidence that the disputed domain name has been actively used by the Respondent for a website containing a concrete offer of goods and/or services. Instead, it only directs to a parking page containing various commercial links. This circumstance reveals the Respondent's primary motive in relation to the registration and use of the disputed domain name which is, in the Panel's view, to profit from the goodwill associated with the Complainant's CCLEANER trademark.

According to previous decisions, by diverting Internet users to the website associated with the disputed domain name, the Respondent is benefiting from pay-per-click revenue and profits, which is evidence of use of the disputed domain name in bad faith (see, Accor SA v. Domain Administrator, PrivacyGuardian.org / Zhichao Yang, WIPO Case No. D2017-1322 and

Accor SA v. Jan Everno, The Management Group II, WIPO Case No. D2017-2212). As the conduct described above falls within paragraph 4(b)(iv) of the Policy (see Triumph International Vietnam Ltd v. Tran Quoc Huy, WIPO Case No. D2017-0340), the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith pursuant to the paragraph 4(a)(iii) of the Policy. The Complainant therefore succeeds also on the third element of the Policy.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. CCLEANERPRO.SITE: Transferred
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## PANELLISTS

Name	Avv. Guido Maffei
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DATE OF PANEL DECISION 2021-03-02

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Publish the Decision

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