Decision for dispute CAC-UDRP-103470

Case number	CAC-UDRP-103470
Time of filing	2021-02-19 09:27:47
Domain names	carglass.pro

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	Belron International Limited

Complainant representative

Organization	HSS IPM GmbH

Respondent

Name	Milen Radumilo

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 is the owner of the registered trademark CARGLASS in numerous countries all over the world, including Romania where Respondent is located.

The Complaint is based, in particular, on figurative European Trademark Registration CARGLASS No. 001997097, registered on 18 February 2003 for goods and services in classes 12, 21 and 37.

These trademark registrations predate, by a considerable time, the registration of the disputed domain name, which occurred on 16 January 2021.

FACTUAL BACKGROUND

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

1.
The Complainant is the world’s largest dedicated vehicle glass repair and replacement company with approximately 29,000

employees in over 35 countries on 6 continents.

2.
It results from the registrar verification that the current registrant registered the disputed domain name on 16 January 2021.

Furthermore, the disputed domain dame currently has active MX records, meaning that emails can be sent from an address which would be likely to make a recipient believe that it is a legitimate communication from Complainant.

3.
According to the undisputed evidence provided by the Complainant, the disputed domain name resolves to a parking page with commercial pay-per-click-links related amongst others to the Complainant's business.

4.
It results from the undisputed evidence before this Panel, that the disputed domain name was listed for sale on different platforms, e.g. for a price of 2888 USD on one platform and for the minimum offer of 688 USD on another platform.

5.
Complainant contacted Respondent on 29 January 2021 through a cease and desist letter sent to the only email address listed in the whois record associated with the disputed domain name. A reminder regarding the C&D letter was sent to email addresses abuse@dynadot.com & service@afternic.com on 3 February 2021. The Respondent never replied directly to the communications.

6.
Finally, the Panel notes that the Respondent has been involved in at least in 90 UDRP Disputes involving well-known third party trademarks.

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

1.
The Panel finds that the disputed domain name is identical or confusingly similar to the Complainant’s trademark, paragraph 4(a)(i) of the Policy.

Proceedings to a side-by-side comparison of the disputed domain name and the textual component of the Complainant's trademark, it is to be noted that the disputed domain name consists of the identical verbal element forming the trademark. The addition of the generic Top-Level Domain (new “gTLD”) “.pro” does not add any distinctiveness to the disputed domain name. Consequently, the Panel has no doubt that the disputed domain name is identical or confusingly similar to the Complainant's trademark.

2.
In the absence of any response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name, paragraph 4(a)(ii) of the Policy.

In particular, the Respondent is neither affiliated with nor authorized by the Complainant, and it is not related in any way to the Complainant’s business. In addition, the Respondent is not commonly known by the disputed domain name. Finally, the website to which the disputed domain name resolves is parked and shows commercial pay-per-click-links including links related to the Complainant's business. This can neither be considered as bona fide offering of goods or services nor a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

3.
Finally, the Panel finds that the disputed domain name has also been registered and is being used in bad faith, paragraph 4(a)(iii) of the Policy.

It results from the evidence before the Panel that the Respondent registered the disputed domain name primarily for the purpose of selling it to the Complainant or any other third party for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name. In fact, the documented purchase price of 2888 USD on one platform and the documented minimum offer of 688 USD requested on another platform largely exceeds the out-of-pocket costs of a .pro domain name.

Considering the identity between the trademark “CARGLASS" and the disputed domain name, which suggests the Respondent’s awareness of the trademark, the Panel also considered the following additional relevant factors for the finding of bad faith registration and use:

(i) the pattern of conduct on the side of the Respondent, being involved in more than 90 previous UDRP-proceedings;
(ii) the disputed domain dame having active MX records, meaning that emails can be sent from an address which would be likely to make a recipient believe that it is a legitimate communication from Complainant;
(iii) the disputed domain name resolving to a parking page with commercial pay-per-click-links related amongst others to the Complainant's business;
(iv) the failure of the Respondent to reply to the C&D letter sent by the Complainant before starting the present UDRP proceedings;
(v) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use;
(vi) the implausibility of any good faith use to which the disputed domain name may be put and
(vii) the Respondent hiding his identity behind a service provider.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CARGLASS.PRO**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2021-04-05

Publish the Decision