

Decision for dispute CAC-UDRP-103681

Case number	CAC-UDRP-103681
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Time of filing	2021-03-22 10:16:14
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Domain names	kaukokiitodom.site
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Suomen Kaukokiito Oy
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Complainant representative

Organization	KPMG Oy Ab Tampere
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Respondent

Organization	RegistrationPrivate
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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.

IDENTIFICATION OF RIGHTS

The Complainant's representative vaguely mentioned a business name (Suomen Kaukokiito Oy) and an unspecified trademark (application/registration number has NOT been provided to the Panel, nor a specific name: the Complainant merely affirmed there would be "a mark already registered ...").

FACTUAL BACKGROUND

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

Domain name <kaukokiitodom.site> has been registered in violation of Complainant's business name and (unspecified) trademark.

The disputed domain name currently redirects to a parking page containing several advertising links, in which the same is also offered for sale.

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

INTRODUCTION

This Panel shall underline the present decision has been provided although the complaint filed is characterized by some omissions and inaccuracies.

First of all, the Complainant made reference to the "Finnish law", even though UDRP is the only applicable Policy to be followed in the context of a domain name dispute to be decided according to ICANN rules.

In this regard, it shall also be noted the Complainant did not explicitly grounded each of the three UDRP elements that must be found out in order to get the transfer of a disputed domain name. However, this Panel inferred from the Complainant's brief arguments that conditions set out by paragraph 4 of the Policy apply in this specific case and the lack of a response from the Respondent is an eloquent evidence of what decided below.

Lastly, the Complainant's representative requested to the Czech Arbitration Court "...to lock the Infringing website immediately in order to bring an end to the infringing activities..." and "...to obtain the details of the Infringer...": that is NOT competence of ADR.EU nor of this Panel to accomplish such requests.

1. IDENTICAL OR CONFUSING SIMILARITY

The Panel finds that the disputed domain name <kaukokiitodom.site> is confusingly similar to the Complainant's business name "Suomen Kaukokiito Oy" and to the Finnish trademark registration no. 62600 "KAUKOKIITO & device", filed in 1971 and duly renewed in the years by the Complainant itself.

Once again, the Complainant's representative did NOT explicitly mentioned such trademark registration, but the Panel inferred this was the prior right which he referred to.

2. NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

The Complainant did not explicitly clarified if the Respondent is somehow affiliated or authorized by the Complainant in any way, nor if the Complainant licensed or authorized the Respondent to make any use of the disputed domain name.

However, in the argument's context it is rather clear that the Complainant was not aware / did not authorize the registration of <kaukokiitodom.site>.

It is well known that the Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

Given all the above, the Panel infers that the Respondent has no such rights or legitimate interests in the disputed domain name.

3. THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH

The Panel finds there are prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name.

As a matter of fact, the existence of pay per click advertising on the website is an indication of commercial gain. The Respondent has taken no positive steps, to the knowledge of the Panel, to displace the possible likelihood of confusion through the use of a name corresponding closely to a trademark held by and existing website operated by the Complainant (see, among others, WIPO Case no. D2013-1409).

In the absence of a response from the Respondent, the Panel infers that the Respondent had the Complainant's business name and trademark in mind when registering the disputed domain name. Consequently, the Panel believes that the same was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. KAUKOKIITODOM.SITE: Transferred

PANELLISTS

Name	Tommaso La Scala
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DATE OF PANEL DECISION 2021-04-26

Publish the Decision