

Decision for dispute CAC-UDRP-103647

Case number	CAC-UDRP-103647
Time of filing	2021-04-08 09:47:42
Domain names	wwwhidemyass.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
--------------	---------------------------------

Complainant

Organization	Avast Software s.r.o.
--------------	-----------------------

Complainant representative

Name	Rudolf Leška
------	--------------

Respondent

Name	Zhenhua Bin
------	-------------

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

1.

The Complainant is a company based in Prague.

It claims to be the owner of several registered verbal and figurative trademarks consisting of or containing the slogan "HIDE MY ASS". In support of this allegation, the Complainant provides extracts of the following seven trademarks:

- UK word trademark "HIDE MY ASS" no. UK00002593092 for goods and services in the classes 9, 38, 42 with priority from August 31, 2011;
- UK figurative trademark "HIDE MY ASS" no. UK00002593017 for goods and services in the classes 9, 38, 42 with priority from August 31, 2011;
- EU word trademark "HIDE MY ASS" no. 010786754 for goods and services in the classes 9, 38, 42 with priority from April 4, 2012;
- US word trademark "HDE MY ASS" reg. no. 4363234 for goods and services in the classes 9, 38, 42, 45 with registration date July 9, 2013;

- AU word trademark "HIDE MY ASS" no. 1626764 for goods and services in the classes 9, 38, 42 with priority from January 9, 2014;
- International figurative mark "HIDE MY ASS" no. 1204967 for goods and services in the classes 9, 38, 42 (British application with designation for AU, CH, IN, MX, NO, RS, RU, TR, U) with registration date January 9, 2014; and
- CA word trademark "HIDE MY ASS" reg. no. TMA969519 for goods and services in the classes 9, 35, 38, 42 with priority from April 29, 2014.

However, it results from the database extracts on the above trademarks provided by the Complaint in support of his Complaint, that none of these trademarks are registered in the name of the Complainant. All trademarks are rather registered in the name of another entity, with a different name (i.e. a Ltd. Company with address in London). In the absence of any explanations as to why the Complainant should be entitled to claim any rights resulting from these third-party trademarks, the Complainant failed to provide evidence that it is entitled to claim the rights resulting from the above trademarks.

2.

Secondly, the Complainant alleges that it distributes its products via its website www.hidemyass.com. Printouts of this website are provided as further enclosure to the Complaint. However, these printouts do not mention the Complainant or show that it is actually the Complainant running this website.

The Panel further notes that the imprint of that website has not been provided within this enclosure. Nevertheless, the Panel accessed said website and the imprint which mentions - again - the London based Ltd. Company as the responsible entity for this website. The Complainants company name is not mentioned in the imprint.

3.

In the light of the above, and in the absence of any further right attributable to the Complainant, the Panel holds that Complainant failed to prove that it has trademark or other rights in the slogan "HIDE MY ASS" for purposes of standing to file a UDRP case. In the absence of any right, the Complainant therefore failed to prove that the disputed domain name is identical or confusingly similar to a trademark or service mark in which it has rights (within the meaning of paragraph 4(a)(i) of the Policy).

As a consequence, the first element is clearly not met so that Panel considers it unnecessary to address the other elements.

FACTUAL BACKGROUND

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant failed to prove that 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).

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.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. WWWHIDEMYASS.COM: Remaining with the Respondent

PANELLISTS

Name **Dr. Tobias Malte Müller**

DATE OF PANEL DECISION **2021-05-20**

Publish the Decision
