Decision for dispute CAC-UDRP-103266

Case number	**CAC-UDRP-103266**
Time of filing	**2021-05-12 10:45:24**
Domain names	**iasme.com**

Case administrator

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

Complainant

Organization	**IASME Consortium Ltd**

Respondent

Organization	**Anonymize, Inc.**

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

IASME Consortium Ltd, was incorporated in January, 2014 and is best known as the sole provider of UK government backed schemes to improve Cyber Security controls nationwide, Cyber Essentials and Cyber Essentials Plus.

The Complainant's owns a domain name ‘iasme.co.uk’ and a UK trademark UK00003464991 since 2020.

FACTUAL BACKGROUND

The Complainant is IASME Consortium Ltd, a not-for-profit organisation focusing on small and medium enterprises (SMEs), whose term "I.A.S.M.E" stands for “Information Assurance for Small and Medium Enterprises Consortium“.

IASME Consortium Ltd, was incorporated in January, 2014 and is best known as the sole provider of UK government backed schemes to improve Cyber Security controls nationwide, Cyber Essentials and Cyber Essentials Plus. It is very important to the Complainant that customers seeking these services are not given misinformation or advised by an unauthorised party.

The disputed domain name is identical to the Complainant's domain name <iasme.co.uk> and also violates a UK trademark UK00003464991 registered by the Complainant.

The similarities between the disputed domain name and the Complainant’s domain is being exploited by the current Registrant to operate a Pay-per-click website with content that directly links to IASME’s schemes, suppliers and partners. The direct mention of IASME’s schemes, suppliers and partners indicates that the Registrant is purposely attempting to confuse traffic seeking the Complainant’s domain for financial gain.

PARTIES CONTENTIONS

The Respondent did not reply to the Complainant’s contentions.

RIGHTS

The Complainant has 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

As per paragraph 12 of the UDRP Rules, the Panel requested the Complainant to present further statements to clarify certain statements. The Panel provided the Complainant with 5 days in order to comply with the request of the Panel, and provided also 5 days to the Respondent to comment on the new statements filed by the Complainant.The Panel´s decision was extended until 23 July 2021 in order to allow the parties to provide their statements as well as for the Panel to analyze any newly presented submissions.

The Complainant complied with the Panel´s request and the Respondent did not submit any comments or response.
The Panel notes that the Respondent has not participated in any way in the present proceedings.

PRINCIPAL REASONS FOR THE DECISION

Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

(i) the disputed domain name is identical or confusingly similar to the Complainant’s trademark; and

(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.

A. Identical or Confusingly Similar

The Complainant was incorporated in 2014 as a company in the UK and owns a registered UK trademark for the term "IASME" since August 2020. The term IASME is identical for the disputed domain name.

As per the date of the registration of the disputed domain name, the Panel notes that the disputed domain name was registered in August 2003. While the UDRP makes no specific reference to the date on which the holder of the trademark or service mark acquired its rights, such rights must be in existence at the time the complaint is filed.

The Complainant has shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights at the time the present Complaint was filed (within the meaning of paragraph 4(a)(i) of the Policy).

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out illustrative circumstances as examples which, if established by the respondent, shall demonstrate its rights to or legitimate interests in the domain name for purposes of paragraph 4(a)(ii) of the Policy.

The Respondent did not file a response in this proceeding and the Complainant's assertions that the Respondent lacks rights or legitimate interests were not rebutted. Therefore, the Respondent has failed to come forward with any explanations demonstrating any rights or legitimate interests in the disputed domain name.

Additionally, based on the evidence presented to this Panel and the current active use of the disputed domain name, the Panel agrees that the Respondent is not making any bona fide offering of goods or services under the disputed domain name.

Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. The Panel has taken the following points into account:

The disputed domain name was first registered on August 17, 2003, but not by the Respondent. The disputed domain name was first registered by the World Scientific & Engineering Society and had at least 2 other owners until 2020. According to a historical WHOIS record presented by the Complainant, it can be seen that the current Registrar and Registrant "Anonymize, Inc." appeared in the WhoIs of the disputed domain name since at least September 2020.

Additionally, it is noted that panels have found in previous UDRP Decisions, that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links capitalise on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users.

In this case, the Panel notes that by using the disputed domain name for a PPC website advertising cybersecurity services of other companies (which seem to be in the same business as the Complainant), the Respondent was, in all likelihood, trying to divert traffic intended for the Complainant's website to its own for commercial gain as set out under the Policy, paragraph 4(b)(iv).

The Panel is satisfied that the Respondent registered and used the disputed domain name with full knowledge of the Complainant´s rights when taking over the registration of the disputed domain name in September 2020 in bad faith, as the Respondent connected it and continues using the disputed domain name as a hosted PPC website with links about cybersecurity services (as stated above).

Consequently, the Panel finds that the Respondent registered and used the disputed domain name in bad faith and that the Complainant satisfied the requirements of the Policy, paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **IASME.COM**: Transferred

PANELLISTS

Name	**Laura Martin-Gamero Schmidt**

DATE OF PANEL DECISION 2021-07-23

Publish the Decision