

Decision for dispute CAC-UDRP-103878

Case number	CAC-UDRP-103878
Time of filing	2021-06-21 10:12:58
Domain names	Starstablemistfall.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Star Stable Entertainment AB
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Complainant representative

Organization	SILKA AB
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Respondent

Name	Sanem Erdinc
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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

Complainant owns various trademarks including the terms “Star Sable” or “STAR STABLE MISTFALL”, including the EU trademark no. 8696775 “Star Stable” (word), registered since April 5th, 2010, which covers various software-related goods in international class 09, and the EU trademark no. 18356518 “STAR STABLE MISTFALL” (word), applied for on December 17th, 2020, and registered since May 6th, 2021, which covers various goods and services in international classes 09, 16, and 41.

The disputed domain name was registered on December 17th, 2020, i.e. on the same day as the application date of Complainant’s “STAR STABLE MISTFALL” trademark registration mentioned above. Complainant’s “Star Sable” trademark registration mentioned above clearly predates the registration of the disputed domain name.

FACTUAL BACKGROUND

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

Complainant operates a leading online horse adventure game named “Star Stable Online”, which has 21 million registered users across 180 countries and is supported in 14 languages. Founded in 2011, Complainant’s business has grown to become

a multi-channel entertainment company with an independent record label and the offering of short form animations, book series, comics and mobile apps. In January 2021, Complainant launched its first animated series called “Star Stable Mistfall”.

Respondent has used the disputed domain name for a parking website of the domain name marketplace Sedo, stating “The domain starstablemistfall.com is for sale” and “Buy this domain – 988 USD – Buy Now”.

Complainant tried to contact Respondent on February 22nd, 2021, through a cease and desist letter. Respondent did not react to this letter, so a reminder was sent on April 13th, 2021. Respondent also did not react to this reminder.

Complainant contends that Respondent monitors trademark applications, noticed the filing of Complainant’s trademark application for “STAR STABLE MISTFALL” on December 17th, 2020, and then immediately registered the disputed domain name which corresponds to this trademark.

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

The Panel considers the disputed domain name confusingly similar to Complainant’s “Star Stable” trademark, and also identical to Complainant’s “STAR STABLE MISTFALL” trademark. The fact that the disputed domain name was registered on the same day as the application date of Complainant’s “STAR STABLE MISTFALL” trademark, i.e., before Complainant’s trademark application could mature to a trademark registration, does not by itself preclude Complainant’s standing to file a UDRP case, nor the Panel’s finding of identity or confusing similarity under the first element (cf. section 1.1.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition). Such timing aspects, however, may influence the finding of bad faith which is discussed below.

The Panel also finds that Complainant successfully submitted prima facie evidence that Respondent has made no use of, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services, nor is Respondent making a legitimate non-commercial or fair use of the disputed domain names, nor is Respondent commonly known under the disputed domain name. This prima facie evidence was not challenged by Respondent. Respondent’s display of its offer to sell the disputed domain name is not a bona fide offering of goods and services within the meaning of paragraph 4(c)(i) of the Policy.

Given (i) the distinctive combination of words in the phrase “STAR STABLE MISTFALL” and (i) the conspicuous identity of Complainant’s trademark application data and the disputed domain name’s registration date the Panel considers it most likely

that Respondent had Complainant's new product in mind when registering the domain name. In the absence of a Response, the Panel considers Respondent's offer to sell the disputed domain name for USD 988 as evidence that Respondent has registered the domain name primarily for the purpose of selling it to Complainant as the owner of the corresponding trademark for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the domain name. This is evidence of registration and use in bad faith pursuant to paragraph 4(b)(i) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **STARSTABLEMISTFALL.COM:** Transferred

PANELLISTS

Name	Dr. Thomas Schafft
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DATE OF PANEL DECISION 2021-07-29

Publish the Decision