

Decision for dispute CAC-UDRP-103982

Case number	CAC-UDRP-103982
Time of filing	2021-08-19 09:44:59
Domain names	sonylottery.com, sony-prize.com , sonyprize.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Sony Group Corporation
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Complainant representative

Organization	Coöperatieve Vereniging SNB-REACT U.A.
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Respondent

Name	David Grant
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant has registered the SONY trademark(s) over a wide range of goods and services, in countries around the world (see the designated countries in the International Trademark registrations), including in Russia, the United States and in the European Union.

Complainant's trademark registrations date back at least to the early 1960's.

FACTUAL BACKGROUND

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

The Complainant is a well-known Japanese company engaged in several fields related to electronics, games and entertainment, as well as operating in the financial sector.

The Complainant affirms the three domain names have been registered and used under the circumstances entitling a

REQUEST FOR CONSOLIDATION pursuant to UDRP par. 4(f) and UDRP Rules 3(c) and 10(e).

Past UDRP decisions have held that multiple domain names may be consolidated into a single case where they are all subject to common control and, having regard to all of the relevant circumstances, where consolidation would be procedurally efficient, fair and equitable to all parties. Complainant makes reference to CAC Case 101969 <UNDERARMOUROUTLETSTOREONSALE.COM> and 11 other domains.

The Complaint identifies a number of common factors, namely:

- The domain sony-prize.com has been registered through Namecheap, the same Registrar as the domain <sonylottery.com>;
- The domains <sony-prize.com> and <sonyprize.com> resolve to substantially identical websites;
- The domains <sony-prize.com> and <sonyprize.com> use the same template, contain the same references and identical content;
- The three domain names follow the same format, containing the well-known SONY Trademark(s) and a generic term. In the case of <sony-prize.com>, the generic term is separated by a '-' dash sign;
- All of the domain names were registered at two Registrars: Namecheap and 1&1;
- The domain name <sony-prize.com> has a Creation Date of March 3, 2021, less than 4 months after <sonylottery.com>;

Additionally, as none of these factors have been disputed, it is this Panel's belief that the consolidation of the disputes is fair and equitable for the Complainant, and also meets the general interest to the procedural efficiency of UDRP disputes.

The Complainant affirms all the three domain names are confusingly similar with the famous SONY's brand; have been registered and used without any genuine or legitimate, and also have been demonstratedly used in bad faith, namely for phishing and other fraudulent purposes.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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.

The Panel is also satisfied that the requirements and condition for the consolidation are met according to UDRP rules and established case law, as WIPO Case No. D2018-2946 dealing with several "San Lorenzo - sucks" domain names.

PRINCIPAL REASONS FOR THE DECISION

CONSOLIDATION

Previous panels have considered a range of factors to determine whether such consolidation is appropriate. These include similarities in or other relevant aspects of the registrants' identities, the nature of the marks at issue and naming patterns in the disputed domain names.

In this case, each of the disputed domain names includes the Complainant's trademark SONY. Whilst the registrant name and location are different for each disputed domain name, the Panel finds that it is more than likely that the disputed domain names are under the control of the same registrant.

THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO THE COMPLAINANT'S TRADEMARK

The Panel finds that the disputed domain names are confusingly similar to the trademark SONY and to the relative domain names registered by the Complainant, which has proven to have prior rights since 1964.

In particular, the Panel agrees that the mere addition of the words Prize or Lottery are not only unable to alter the confusing similarity of the dominant component SONY, but in themselves show the same design aimed at taking unfair / illicit profit of Complainant's mark.

Many WIPO and CAC decisions – including CAC case No. 103930 – confirmed that domain names are identical or confusingly similar to a trademark for purposes of the Policy, "when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name" (Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale, WIPO Case No. D2000-0662)." For the same reasons, the addition of generic words after a trademark does not remove the confusing similarity between a mark and the domain name.

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAMES

According to the information provided by the Complainant, the Respondent is not authorized by the Complainant in any way to use the trademark SONY. Likewise, the Complainant neither licensed nor authorized the Respondent to make any use of its SONY trademark, or to apply for registration of the disputed domain name on behalf of the Complainant.

On the other side, it is true that the Respondent purportedly attempted to use the <sonylottery.com> for phishing/fraudulent purposes.

THE DISPUTED DOMAIN NAMES HAVE BEEN REGISTERED AND ARE BEING USED IN BAD FAITH

The Complainant, especially considering the reputation of its international brand, provided evidence of the registration and use of a domain name in bad faith. The examples provided in paragraph 4(b) UDRP rules are not exhaustive, and the requisite bad faith element may be deemed present by other circumstances. See, e.g., Sony Kabushiki Kaisha v. sony.net, WIPO Case No. D2000-1074 (November 28, 2000).

As confirmed by the aforementioned WIPO Overview 3.0 "given that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods >or phishing< can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith". Complainant has put forward evidence and set out a prima facie case that the disputed domain name <sonylottery.com> has been used for phishing purposes.

Identical conclusions apply to other domain names <Sony-prize.com and Sonyprize.com>.

In the absence of any reply from the Respondent, and also given the attempt made by the Complainant to solve the issue reporting the facts to the Registrar, it is the Panel belief that the disputed domain names were registered and are 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. **SONYLOTTERY.COM**: Transferred
 2. **SONY-PRIZE.COM** : Transferred
 3. **SONYPRIZE.COM**: Transferred
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PANELLISTS

Name	Roberto Manno
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DATE OF PANEL DECISION **2021-10-12**

Publish the Decision
