

Decision for dispute CAC-UDRP-104161

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| Case number | CAC-UDRP-104161 |
| Time of filing | 2021-12-02 09:51:49 |
| Domain names | smartwritingservice.com, esssayhave.com |

Case administrator

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| Organization | Iveta Špiclová (Czech Arbitration Court) (Case admin) |
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Complainant

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| Organization | Writera Limited |
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Respondent

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| Name | Nykyta Stopochkin |
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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 is the owner of the following trademarks:

- US Trademark "Essay Have" n° 5936644;
- US Trademark „SmartWritingService“ n° 6006321.

These trademarks were assigned to the Complainant on the basis of a trademark assignment agreement with the previous owner of the trademarks (One Freelance Limited).

("the Complainant's trademarks")

The Complainant asserts to have domain names consisting of the wording "Essay Have", such as <essayhave.com> and consisting of the wording "SmartWritingService", such as <Smartwritingservice.com>, which are connected to the official websites of the Complainant ("the Complainant's domain names").

FACTUAL BACKGROUND

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

The Complainant is a cooperation of more than 80 academic writing websites that help their clients with writing texts for their websites, marketing campaigns, business projects, on top of providing them with customized guides, samples, and writing directions. Complainant's trademarks are used by the Complainant for academic writing assistance and associated education

services.

The Complainant uses its trademarks and domain names in connection to its activities.

The Respondent registered the disputed domain name <esssayhave.com> on 4 October 2019 and <smartswritingservice.com> on 4 December 2020 ("the disputed domain names"). The disputed domain names are currently being used for active websites offering the same type of services as those of the Complainant.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names are identical or confusingly similar to a trademark or service marks 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 that 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

Language of the proceedings

On 3 December 2021, the Complainant asked to change the language of the ADR proceedings from German to English, for the following reasons:

- The disputed domain names include English words (not German) and particularly consist of the words "smart", "writing", "service", "essay", "have"
- the disputed domain names display the websites with only English content;
- the disputed domain name <essayhave.com> is specifically advertised to USA market which implies that the owners of disputed domain name know or should supposedly know English well enough to offer services and operate business in English;
- the Respondent appears to be a US resident and thus understands English.

The Respondent did not object to the requested language change and considering the arguments above, the Panel grants the request to change the language because using English seems to be fair to both parties.

The Panel is satisfied that all procedural requirements under the UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

I. The disputed domain names are confusingly similar to the Complainant's trademarks

The Panel finds that the disputed domain names <esssayhave.com> and <smartswritingservice.com> are confusingly similar to the Complainant's trademarks. The disputed domain names fully incorporate the Complainant's trademarks, albeit with the

addition of the letter “s” at the end of the word “Smart” related to the trademark “SmartWritingService” and with the addition of a third letter “s” in the word “Essay” related to the trademark “Essay Have”. This is a clear example of typosquatting.

The Complainant rightfully contends that the addition of the letter “s” is not sufficient to escape the finding that the disputed domain names are confusingly similar to the Complainant's trademarks.

II. 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

The Panel notes that the Complainant has never granted the Respondent any license or authorization to use the Complainant's trademarks for the disputed domain names, nor is the Respondent affiliated to the Complainant in any way.

The Panel notes that the Respondent uses the disputed domain names for websites that appear to be similar to the websites of the Complainant. In addition, the Respondent offers the same type of services as those of the Complainant, leading to a situation where the public will assume that there is an association between the Respondent and the Complainant. The Respondent has not by virtue of the content of its websites, nor by its use of the disputed domain names shown that they will be used in connection with a bona fide offering of goods or services.

Therefore, the Panel finds that the Complainant has shown that the Respondent has not made legitimate use of the disputed domain names for a bona fide offering of goods or services.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

III. The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names were registered and are being used in bad faith

The Complainant contends that its trademarks are well-known and that, given the distinctiveness of the Complainant's trademarks in general and given its reputation, the Respondent likely had full knowledge of the Complainant's trademarks at the time of the registration of the disputed domain names, as the Respondent used similar logos as those of the Complainant's websites.

The Panel agrees. There is no reason why the Respondent, who is nota bene offering writing services, would use the incorrect spelling in the disputed domain names other than to create a likelihood of confusion with a competitor.

In addition to the above, the fact that the disputed domain names are merely used to attract internet users for commercial gain by creating a likelihood of confusion with the Complainant and the failure of the Respondent to present a credible evidence-backed rationale for registering and using the disputed domain names, show that the Respondent has registered and used the disputed domain names in bad faith.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has registered and used the disputed domain names in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SMARTSWRITINGSERVICE.COM**: Transferred
 2. **ESSSAYHAVE.COM**: Transferred
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PANELLISTS

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| Name | Tom Joris Heremans |
| DATE OF PANEL DECISION | 2022-01-10 |
| Publish the Decision | |