Decision for dispute CAC-UDRP-101026

Case number	CAC-UDRP-101026
Time of filing	2015-07-27 13:01:25
Domain names	SURAVENIR-ASSURANCE.COM

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	SURAVENIR

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	WHOIS PRIVACY PROTECTION SERVICE, INC.

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is proprietor of several trademarks for SURAVENIR and SURAVENIR ASSURANCES, such as the French marks SURAVENIR 3770771 in class 36 applied for and registered on October 1, 2010 and SURAVENIR ASSURANCES 3746543 in classes 35, 36 published on July 23, 2010 and registered on November 5, 2010.

FACTUAL BACKGROUND

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

Created in 1984, SURAVENIR, subsidiary of Crédit Mutuel Arkéa, who owns a French trademark for SURAVENIR ASSURANCES is one of the key players in the world of life insurance and pension in France in life and health insurance, with over 28 billion euros under management life insurance and 32 billion euros of capital at risk on behalf of 2.4 million customers.Major player nationally, SURAVENIR specializes in the design, manufacture and management of life insurance contracts (individual life and group), welfare (insurance borrowers, temporary death) and retirement savings business.

The disputed domain name was registered on 15 June, 2015.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant is of the opinion that the disputed domain name is confusingly similar to trademarks and service marks in which it claims to have rights.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name. According to the Complainant, the Respondent has not used the disputed domain names in connection with a legitimate use. Also, according to the Complainant, the Respondent has not been commonly known by the disputed domain name.

Finally, the Complainant considers that the domain name was registered and being used in bad faith.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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.

At the time of the commencement of this proceeding, the owner of the record of the disputed domain name was WHOIS PRIVACY PROTECTION SERVICE, INC. Once notified of the Complaint, Registrar disclosed another owner for the disputed domain name SURAVENIR ASSURANCE which had the same name and address as the Complainant, but included another email address of an individual. The mentioned email address was the one of a real estate contact mentioned on a website to rent houses. The Complainant preferred not to change the Respondent’s name in the Complaint based on the arguments of CAC decision No. 100221. Accordingly, the Panel finds the CAC followed the correct procedure in accordance with the Policy and the Rules and accepts the request of Complainant that the Complaint proceeds against WHOIS PRIVACY PROTECTION SERVICE, INC.

In view of the fact that almost the same name and address information was used in accordance with the further information provided by the Registrar the panel found it appropriate to issue a panel order asking both parties to comment on the name and address details and the representative of the Complainant to provide a written power of attorney under the letter head of the Complainant and certificates of claimed trademarks.

Whereas the Respondent did not react, Complainant filed a written power of attorney under the letter head of the Complainant and a certificate and further information on claimed trademarks. Even if one trademark registration was from the mother company of the Complainant and no licence to the Complainant was mentioned, this information was in connection with other material provided such as a signed corporate registry excerpt of the Complainant accepted by the Panel as further legitimatising evidence.

PRINCIPAL REASONS FOR THE DECISION

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name being confusingly similar to a

trademark mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

The disputed domain name is almost identical to the trademark SURAVENIR ASSURANCES of the Complainant and still confusingly similar to the trademark of the Complainant SURAVENIR since the further element ASSURANCE is descriptive and cannot carry the weight of the disputed designation. The Panel therefore considers the disputed domain name to be confusingly similar to the trademarks in which the Complainants have rights in accordance with paragraph 4(a)(i) of the Policy.

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).
The Panel therefore finds that the Respondent does not have rights or legitimate interests in the Domain Name.

It is the consensus view of Panels following the decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org> that the apparent lack of active use of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint has been filed and the registrant's concealment of its identity.

Accordingly, the Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy) by registering a confusingly similar domain name being aware of the trademarks of Complainant.

The Panel therefore considers the Domain Name to has been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy under the present circumstances.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SURAVENIR-ASSURANCE.COM**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2015-09-29

Publish the Decision