

Decision for dispute CAC-UDRP-104328

Case number	CAC-UDRP-104328
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Time of filing	2022-02-03 10:07:33
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Domain names	vivendi-se.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	VIVENDI
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	michael scott
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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

The Complainant is the owner of several international trademark registrations for the wording "VIVENDI", such as:

- International trademark VIVENDI® n° 687855, registered and renewed since February 23, 1998;
- International trademark VIVENDI® n° 930935 registered and renewed since September 22, 2006.

FACTUAL BACKGROUND

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

The Complainant is a French multinational mass media conglomerate headquartered in Paris. The company has activities in music, television, film, video games, telecommunications, tickets and video hosting service. With 42,526 employees in 82 countries, the Complainant's total revenues amounted to €16,090 million worldwide in 2020. The Complainant also owns and communicates on Internet through various domain names, such as the domain name <vivendi.com> registered on November 12, 1997.

The disputed domain name <vivendi-se.com> was registered on January 27, 2022 and is inactive.

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). The disputed domain name <vivendi-se.com> is confusingly similar to its trademark VIVENDI®, as it incorporates the trademark in its entirety.

Indeed, the addition of letters “SE” (for “European society” in French) to the trademark VIVENDI® is not sufficient to escape the finding that the domain name is confusingly similar to the trademark and branded goods VIVENDI®. It is well-established that “a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP”. See WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.

See similar case: CAC Case No. 104235, VIVENDI v. Gba Bitico <vivendise.com>.

Thus, the disputed domain name is confusingly similar to the Complainant's trademark VIVENDI®.

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).

According to the WIPO case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Complainant asserts that the Respondent is not identified in the Whois as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name. (for instance: Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> or Forum Case No. FA 699652, The Braun Corporation v. Wayne Loney).

The Respondent is not affiliated with the Complainant nor authorized by it in any way to use the trademark VIVENDI®. The Complainant does not carry out any activity for, nor has any business with the Respondent. The disputed domain name is inactive. Therefore, the Respondent did not make any use of disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

Accordingly, the Respondent has no rights or legitimate interests to the disputed domain name <vivendi-se.com>.

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). The disputed domain name <vivendi-se.com> is confusingly similar to its distinctive and worldwide known trademarks VIVENDI®. See for instance CAC Case No. 101875, VIVENDI v. Phoenix Global Organization Incorporated (“The Panel is convinced that the Trademarks [VIVENDI] are highly distinctive and well-established.”).

Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks. See for instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.

The domain name is inactive. As prior panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website/parking page, may be evidence of bad faith registration and use (WIPO - D2000-0003 - Telstra Corporation Limited v. Nuclear Marshmallows and WIPO - D2000-0400 - CBS Broadcasting, Inc. v. Dennis Toeppen).

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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 disputed domain name <vivendi-se.com> is confusingly similar to its distinctive and worldwide known trademarks VIVENDI®.

The disputed domain name is inactive. There is no plausible legitimate use of the disputed domain name. As prior panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website/parking page, may be evidence of bad faith registration and use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **VIVENDI-SE.COM**: Transferred

PANELLISTS

Name	Thomas Hoeren
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DATE OF PANEL DECISION	2022-02-24
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Publish the Decision
