Decision for dispute CAC-UDRP-104563

Case number	CAC-UDRP-104563
Time of filing	2022-05-09 09:43:48
Domain names	grandduke.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Name	Mindaugas Vaitkunas

Complainant representative

Organization	Dimov Internet Law Consulting

Respondent

Name	HENRIK PISKI

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the Domain Name.

IDENTIFICATION OF RIGHTS

The Complainant owns the following six registered trademarks (the “Registered Trademarks”):

(i) the Japanese trademark reg. No. 1248195 for “GRANDDUKE” filed on the 14th of May 1971 and registered on the 10th of February 1977;
(ii) the UK trademark UK00003505735 for the wordmark “GRAND DUKE” registered on the 9th of October 2020 and filed on the 29th of June 2020;
(iii) the Swiss trademark No. 759215 for the wordmark “GRAND DUKE” registered on the 11th of February 2021 and filed on the 29th of June 2020;
(iv) the EU trademark No. 018179583 for the figurative trademark “GRAND DUKE” registered on the 6th of June 2020 and filed on the 13th of January 2021;
(v) the EU TM trademark No. 018500786 filed on the 25th of June 2021 for the wordmark “GRAND DUKE”; and
(vi) the Turkish registered trademark No: 2021 167272 registered on 5th of April 2022 for the wordmark "GRAND DUKE".

The Registered Trademarks cover various international classes, but all of them are registered in international class 3.

FACTUAL BACKGROUND

The Complainant is the owner of the UK company GRAND DUKE GLOBAL LIMITED and the US company GRAND DUKE GLOBAL, INC. The Complainant has granted licences to those companies to use Complainant's trademarks. The Complainant expanded its operations to Japan by purchasing the Japanese trademark "GRANDDUKE" filed on the 14th of May 1971 and registered on the 10th of February 1977. On the 27th of February 2022, the Complainant submitted a similar complaint against the same respondent and the same domain name (the "Initial Complaint") (see the decision of the Czech Arbitration Court with regard to the UDRP case No. 104388).

In the Initial Complaint, the panel found that there is no evidence of bad faith registration and use, in particular taking into account the following four factors:

"(i) the nature of the domain name and the trademarks – the domain name consists of dictionary words "Grand" and "Duke" that are not associated exclusively or primarily with the Complainant's trademarks and there is no proof of any reputation and popularity of Complainant's trademarks;" (hereinafter, referred to as "FACTOR 1").
"(ii) the content of the website– there is no relation between the content of the website of the Respondent and the activities of the Complainant and his trademarks;" (hereinafter, referred to as "FACTOR 2").
"(iii) the timing and circumstances of the registration – the disputed domain name had been registered before the registration of the Complainant's trademarks, with the exception of the Japanese trademark owned by a different entity for which the Complainant failed to provide proof of proper assignment and its transfer to the Complainant (and even providing a proper proof would not have changed the outcome);" (hereinafter, referred to as "FACTOR 3") and
"(iv) indicia generally suggesting that the respondent had somehow targeted the Complainant were absent in this proceeding and there was no proof of targeting, in particular considering the lack of proximity of goods/services and proximity of the parties in this proceeding: the website by the disputed domain name has been used for online casino services, whereas the Complainant's marks are protected for completely different products and the parties are located in different geographic regions, e.g. the US and France." (hereinafter, referred to as "FACTOR 4").

The Complainant has provided new documents and evidence showing its prior rights in the GRAND DUKE mark as set out above and that the trademark GRAND DUKE has been used in commerce since 1974 and registered since 1977 decades before registration of the Domain Name on any view of when this occurred since original registration of the Domain Name was not until in 2002. As of the date of filing of the Initial Complaint, the Japanese Trademark Office had not amended the publicly available record regarding the change of the ownership of the Japanese trademark. The change of ownership occurred on the 10th of February 2022. The official record was updated in the middle of March (about the 14th of March 2022), but, at that time, the UDRP proceedings were ongoing.

Respondent used the web site attached to the Domain Name for an on-line casino and promotion of prescription medicines and skin products for acne, wrinkles and eyelashes related to the cosmetic field which is the same field in which the Complainant operates.

Shortly after the Complainant submitted the Initial Complaint, the Respondent has shut down the Website and the Website is currently unused.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant's contentions can be summarised as follows:

REFILING OF THE COMPLAINT

New material evidence that was reasonably unavailable to the complainant during the original case is attached to this complaint including a translation version of a public trademark record made available by the Japan Patent Office (which clearly states that the Japanese trademark Reg. No. 1248195 for GRANDDUKE is owned by the Complainant and that the trademark was registered on the 10th of February 1977) and a translation of an official trademark registration certificate

showing that the Complainant is the current owner of the trademark GRANDDUKE and the previous owner of the trademark was Albion Co. Ltd. The trademark was used for the sale of the GRANDDUKE products and one such product was sold every 10 seconds. Since one common year has 31536000 seconds, this means that the trademark was used in relation to the sale of 3,153,600 products. The sale of more than 3 million products per year is certainly sufficient to prove that the trademark has gained substantial reputation. The Domain Name was used in relation to the promotion of illegal prescription medicine.

With regard to the decision in the Initial Complaint:

FACTOR 1

The panelist stated that there is no proof of any reputation and popularity of Complainant's trademarks. After filing the UDRP proceedings, the previous owner of the trademark (ALBION CO., Ltd) provided the Complainant with evidence of reputation of the trademark GRAND DUKE which was not available to the Complainant before the UDRP proceedings. More particularly, the previous owner provided the Complainant with information that the essential skin conditioner "GrandDuke" was widely sold all over the world and 1 bottle of it is sold every 10 seconds In the Initial Complaint, the Complainant included information about the reputation and the use of the Japanese trademark "GRAND DUKE" but the panelist likely has not taken it into account because he considered that the Complainant was not the owner of the Japanese trademark. Since the new evidence proves the Complainant's ownership of the Japanese trademark this decision becomes particularly relevant and may lead to an overturn of the decision in the Initial Complaint. By disregarding the presented evidence of goodwill probably because of the lack of a public evidence of ownership of the trademark the panelist in the Initial Complaint made a decision which does not reflect the actual factual situation.

FACTOR 2

The previous panelist found that there is no relation between the content of the website of the Respondent and the activities of the Complainant and his trademarks. However, after the commencement of the proceedings, new online evidence became available which clearly indicates that the Respondent used its website for promotion of prescription medicines and skin products for acne, wrinkles and eyelashes. The evidence clearly indicates that there is targeting on behalf of the Respondent, i.e., the Respondent uses Japanese backlinks in the field of prescription medicine related to the cosmetic field the same field in which the Complainant operates. The use of Japanese backlinks in the field of prescription medicine related to cosmetics with regard to the disputed domain name which was registered more than 30 years after the Complainant's trademark clearly indicates that the Respondent knew or should have known about the Complainant's trademark which had a long-standing reputation in Japan and, nevertheless, decided to unfairly benefit from it by using backlinks related to prescription medicine and skin products for acne, wrinkles and eyelashes. The diversion of Internet users by the disputed domain name to websites selling prescription medicine and skin products for acne, wrinkles and eyelashes and the use of cosmetics-related backlinks are certainly consistent with the finding of bad faith. The Respondent presents himself as "an IT consultant and small business owner". Therefore, the Respondent is supposed to have sufficient knowledge and skills to conduct an online search for the trademark "Grand Duke" and find information about the Complainant's trademark.

FACTOR 3

The panelist argued that the Domain Name had been registered before the registration of the Complainant's trademarks, with the exception of the Japanese trademark owned by a different entity for which the Complainant failed to provide proof of proper assignment and its transfer to the Complainant. As of the date of filing the Initial Complainant, the Japanese Trademark Office did not amend the publicly available record regarding the change of the ownership of the Japanese trademark. The change of ownership occurred on the 10th of February 2022 which is attached to this complaint and was attached to the Initial Complaint. Newly available evidence shows that the Japanese trademark GRANDDUKE was assigned by ALBION CO., LTD to the Complainant on the 10th of February 2022. A declaration of assignment clearly shows that the Complainant is the current owner of the crucial Japanese trademark. The Japanese trademark office amended the publicly available record regarding the change of the ownership in the middle of March 2022 and the Complainant needed some time to translate the publicly available record from Japanese to English. At the time when the Complainant filed the complaint

(the 27th of February 2022), the public record was not updated and the Complainant was not able to present an official document from the Japanese trademark office. The official record was updated in the middle of March (about the 14th of March), but, at that time, the UDRP proceedings were ongoing. Furthermore, the complainant needed time to translate the public record from Japanese to English. The public record and the registration certificate relating to the Japanese trade mark clearly change the paradigm regarding FACTOR 3 because they prove without any doubt that the Complainant's Japanese trademark was registered before the Domain Name.

FACTOR 4

The panelist found that there is no indicia of targeting of the Complainant considering the lack of proximity of goods/services and proximity of the parties in the proceedings. The panelist likely made this conclusion based on his assumption that the Japanese trademark is owned by a different entity. The newly found evidence is sufficient to overturn the previous panelist's decision as it clearly indicates that the respondent used backlinks in Japan in the fields of prescription medicine and skin products for acne, wrinkles and eyelashes. These two fields are related to the Japanese trademark "GRANDDUKE" which covers cosmetics, dentifrices, soaps, and fragrances. The cosmetic products (e.g., cosmetic creams) to which the targeted links refer are included in class 3 of the International Nice Classification and Complainant's trademark covers international class 3. Even if the products included in the backlinks are not regarded as cosmetics, but as pharmaceuticals in class 5, they will still be skincare products closely related to the cosmetic products in international class 3.

The evidence clearly shows the Respondent conducts business targeted at Japan.
Also, the location of the parties should be irrelevant for the purposes of this UDRP proceeding as, nowadays, one can conduct business activities remotely all over the world. What is relevant is that the Complainant is the owner of the Japanese trademark "GRAND DUKE" and that the trademark was used globally.

Based on the information above, it is clear that this refiled complaint presents new material evidence that was reasonably unavailable to the Complainant during the original case.

The Complainant added to this complaint new evidence of use by the Respondent of the Domain Name for cosmetic related pharmaceuticals some of which was publicly available before filing the complaint, but the Complainant was not aware of it. Taking into account that the Complainant cannot became aware of all available online evidence at any time, the Complainant requests that this newly discovered evidence shall also be regarded as reasonably unavailable for the purposes of the UDRP for the Initial Complaint.

Some of the newly presented evidence obtained from the Complainant's predecessor in title is particularly relevant as it proves that the Complainant's registered trademark GRAND DUKE was widely used in commerce before the registration of the Domain Name. Since the evidence indicates that the trademark GRAND DUKE was used in relation to the sale of millions of GRAND DUKE products, the trademark GRAND DUKE can be regarded as a famous trademark and, as known, famous trademarks enjoy a broad scope of legal protection because they are more likely to be associated and remembered in the public's mind. A famous (well-known) trademark usually does not have to be registered in a given jurisdiction for a claimant to bring a trademark infringement action in that jurisdiction.

Since Respondent's involvement in the sale of prescription medicines and skin products for acne, wrinkles and eyelashes coincided with Respondent's ownership of the Domain Name, the goods (prescription medicines and skin products for acne, wrinkles and eyelashes) in relation to which the Domain Name was used are related and similar to the goods (e.g., dentifrices and cosmetics) covered by Complainant's trademark.

The fact that the Respondent used Japanese backlinks to prescription medicines and skin products for acne, wrinkles and eyelashes is a clear indication that the Respondent knew or should have known about the famous trademark GRAND DUKE and he unlawfully benefited from the famous trademark GRAND DUKE in order to gain customers for his casino or his pharmaceutical business. According to an official Maltese court judgment, Mastercard informed Credorax (Malta) Limited that IP Limited "was in fact operating in illegal business. This business was in a medical field (pharmaceuticals)". The

Respondent was a director of the company “IP Limited”. This clearly shows that the creation of Japanese prescription-medicine and skin products for acne, wrinkles and eyelashes related backlinks is done or commissioned by the Respondent as his company was involved (according to an official court judgment) in an illegal business in a medical field (pharmaceuticals). It should also be noted that the Respondent started to use Japanese prescription medicine-related backlinks in 2016 at the same time when there was publicly available information about the GRAND DUKE products. Thus, the Respondent’s use of Japanese prescription medicine-related backlinks and skin products for acne, wrinkles and eyelashes during the time when the trademark GRAND DUKE was registered and there was publicly available information about the trademark GRAND DUKE clearly indicates targeting by the Respondent.

The remarks above supplement the amended UDRP complaint.

UDRP COMPLAINT

In accordance with the provisions of Paragraph 4 (a) of ICANN’s Uniform Domain Name Dispute Resolution Policy (hereinafter, referred to as the “Policy”), the Complainant must prove three elements in order to have the disputed domain name grandduke.com (the “Domain Name”) assigned in his favour. These elements are:

(i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
(ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
(iii) the Domain Name has been registered and is being used in bad faith.

The Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

Confusing similarity between Complainant’s trademarks and the Domain Name
The Domain Name is confusingly similar to the Registered Trademarks because the Domain Name consists of the following three elements: (i) “grand”; (ii) “duke”; and (iii) “.com”. Only the first and the second elements are relevant for the purpose of assessing the confusing similarity between the Domain Name and the Registered Trademarks. For the purpose of determining whether the Domain Name is confusingly similar to the Complainant's Registered Trademarks, the generic Top-Level Domain (“gTLD”) “.com” is inconsequential. According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 1.11, the applicable Top Level Domain (“TLD”) in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

The first two elements of the Domain Name (i.e., the elements “GRAND” and “DUKE”) are identical to the Registered Trademarks for “GRAND DUKE” and “GRANDDUKE”.
The Respondent has no rights or legitimate interests in respect of the Domain Name
The Respondent has no rights or legitimate interests in respect of the Domain Name because the following circumstances specified in Section 4(c) of the Policy are not present:
First Group of Circumstances Indicating Rights or Legitimate Interests: “before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services”;
Second Group of Circumstances Indicating Rights or Legitimate Interests: “you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights”;
Third Group of Circumstances Indicating Rights or Legitimate Interests: “you are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue”.

The First Group of Circumstances Indicating Rights or Legitimate Interests
The Domain Name has not been used in connection with a bona fide offering of goods and services. The website associated with the Domain Name (the “Website”) used to be an unlicensed and unfair online casino and was associated with prescription medicine for cosmetic purposes. This casino is now closed. The Website is currently unused. A parked page

cannot be regarded as a webpage used in connection with bona fide offering of goods and services
The owners of the Website used “cloaking”, i.e., the practice of presenting different content or URLs to human users and search engines
The Second Group of Circumstances Indicating Rights or Legitimate Interests
The Respondent does not have any “GRAND DUKE” trademarks
To Complainant’s knowledge, the Respondent does not have any trademarks corresponding to the Domain Name. The Complainant conducted a trademark search in the UK and Gibraltar (the jurisdictions in which the Respondent falsely claims ownership of a gambling licence) and did not find any such trademarks owned by the Respondent for GRAND DUKE.

The Respondent is not commonly known by the Domain Name
The Respondent is not commonly known by the Domain Name as the online casino operated on the Website is closed.
The Third Group of Circumstances Indicating Rights or Legitimate Interests
The Respondent does not make a legitimate non-commercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

First, the Website was operated by a commercial company (Nektan (Gibraltar) Limited) and hosted an inactive online casino. An inactive and unlicensed casino that misleads users into believing that it is an active duly licensed casino cannot be regarded as a legitimate non-commercial or fair use of the Domain Name.
Second, the use of the Website may tarnish the Registered Trademarks of the Complainant as the association of the Registered Trademarks with a highly-criticized unlicensed and inactive casino that misleads people into believing that it is a licensed casino will inevitably portray the Registered Trademarks in a negative light. It is well-known that an unfortunate association of a trademark with a name can scar a business reputation, even if the connection is coincidental.
The association of the Registered Trademarks with the sale of medicines without a proper licence will also tarnish the reputation of the Registered Trademarks. Many people will question the legitimacy of Complainant’s business activities (the sale of legitimate cosmetic skin-related products) if the Complainant’s business is connected with the illegal sale of prescription drugs and skin products for acne, wrinkles and eyelashes, such as clomid, tretinoin, and tamoxifen.
Third, the Website is currently shut down so no use whatsoever of the Domain Name (including a legitimate non-commercial or fair use) can be observed.

The Domain Name has been registered and is being used in bad faith
The Complainant has an earlier trademark

The Complainant owns the Japanese trademark “GRANDDUKE” filed on the 14th of May 1971 and registered on the 10th of February 1977. This means that, at the time when the Respondent registered the Domain Name, the Japanese trademark “GRANDDUKE” was registered and publicly available for inspection. Furthermore, the Japanese trademark “GRANDDUKE” owned by the Complainant has been consistently in use at least since 1977 in relation to the sale of goods. As mentioned above, the previous owner of the Complainant’s trademark (Albion Co., Ltd) was a multinational company that offers global and Japanese brand cosmetic lines.

The Respondent knew or should have known about the earlier trademark
Taking into account (i) the global nature of Respondent’s business (online gambling services provided internationally), (ii) the use in Japan of the Domain Name in relation to the sale of prescription drugs and skin products for acne, wrinkles and eyelashes, and (iii) the global operations of the previous owner of the trademark GRANDDUKE (including operations in the UK and France), at the time when the Domain Name was registered, the Respondent knew or should have known about the Japanese trademark of the Complainant.

There is evidence of Japanese websites (having .jp domain names) containing spam messages including the disputed domain name. They indicate that the respondent likely used the domain name in connection with the sale of prescription medicine. The use of the domain name in spam messages seriously harms the reputation of the Complainant’s trademarks (including the Japanese trademark).

A global trademark search would have revealed that the trademark “GRANDDUKE” is registered. The Respondent registered

the Domain Name in order to prevent the Complainant from reflecting its mark in the Domain Name. The current use of the Domain Name leads to tarnishing to Complainant's Registered Trademarks, thus harming the reputation of the Complainant.
The Respondent used backlinks including the extension .jp (Japan) to attract visitors to the Website with cloaking activities. By presenting different content to human users (gambling services) and search engines (the sale of medicines, such as clomid, tretinoin, tamoxifen, amoxicillin), the owners of the Website engaged in cloaking, a practice prohibited by Google Webmaster Guidelines regarded as a black hat activity, i.e., conducting cyber activities that breach legal, contractual, or social norms.
Since the Website was advertised in Japan in violation of Google's rules, it is clear that the Respondent targets the Japanese market, a market where the Complainant owns a trademark registered more than 40 years ago. Taking into account that the Respondent targets the Japanese market, the Respondent should have conducted a trademark search in Japan and should have become aware of the Japanese trademark of the Complainant.
Previous owners of the Domain Name engaged in illicit activities

It should also be noted that Henrik Piski, a registrant of the Domain Name in 2013, 2014, 2015, 2016, 2017, 2018 was a director of the company "IP Limited". In the Maltese court judgment Credorax (Malta) Limited vs. IP Limited, the court found that IP Limited breached the terms of the agreement with Credorax (Malta) Limited and should compensate the other party for the damages. According to the court judgment, Mastercard informed Credorax (Malta) Limited that IP Limited "was in fact operating in illegal business. This business was in a medical field (pharmaceuticals)"

Based on the above, it can be concluded that Henrik Piski likely operated an illegal business in a medical field (pharmaceuticals) and used the traffic of that business for search engine optimization (SEO) purposes (i.e., to attract visitors to the Website).
The name of Igor Knopov, one of the previous registrants, is also associated with illegal activities. Mr Knopov owned the Domain Name in 2010 and 2011. Upon information and belief, Mr Knopov was convicted in Israel, as he confessed, of the offenses of extortion and unlawful receipt of payments.

It is worth mentioning that the first registrant of the Domain Name, WebReg also had a history of bad faith behaviour with regard to domain names. More particularly, there are at least four UDRP cases proving this.

The information above clearly shows that the Domain Name had a long chain of owners who were engaged in illicit activities. This chain starts with the first registrant of the Domain Name RN WebReg who was a defendant in many UDRP proceedings and, in the majority of cases, the disputed domain names were transferred. This implies that the first registrant was aware of the Complainant's Japanese trademark "GRANDDUKE" and, nevertheless, registered the Domain Name to prevent the owner of the trademark from reflecting it in the domain name. Igor Knopov, one of the next owners of the Domain Name (Igor Knopov) was convicted for extortion and unlawful receipt of payments. Henrik Piski (the Respondent), another owner of the domain name, was found by a Maltese court to operate in illegal business in the field of pharmaceuticals.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical 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.

PRINCIPAL REASONS FOR THE DECISION

Refiling
The complaint is between parties who have already been adversaries in a previous ADR concerning the same domain name. At that time, the Panel (otherwise constituted than the current Panel) had rejected the complaint.

This Panel has carefully considered this issue and is of the view that it would be inappropriate for an unsuccessful complainant to file successive complaints against the same party in relation to the same domain name, in the hope that successive improvements to its complaint or annexes, or a panel otherwise constituted, would enable it to prevail. The applicable rules allow a party who is dissatisfied with the decision of a panel to bring an action before the competent court, and it is this procedure that should be preferred.

However, the procedure provides for the possibility of a new complaint between the same parties concerning the same domain name.

In line with a practice observed in most common law jurisdictions with which the Panel is familiar, the discovery of new evidence which, with the exercise of due diligence, would not have been reasonably available at the time of the original hearing can, in some circumstances provide a ground for a new hearing/procedure/complaint.

The Panel has verified that the evidence presented by the Complainant re its ownership of the Japanese mark and the use of the GRAND DUKE mark back several decades, and the new evidence of the use of the Respondent of the disputed domain name for pharmaceuticals is new in the sense that it was unknown to the complainant or not available when he filed the Initial Complaint. As such the Panel considers that there is new evidence that the Complainant has presented in this refiling and the Panel will consider this Complaint a new one.

Identical or Confusingly Similar

The disputed domain name consists of the Complainant's GRAND DUKE mark (which is registered, inter alia, in Japan in International Class 3 with the first use recorded as 1974) merely adding the gTLD .com. On any view of when the Respondent registered the disputed domain name it was registered decades after the Complainant’s GRAND DUKE trade mark was first registered.

The gTLD .com does not serve to distinguish the disputed domain name from the Complainant’s mark.

Accordingly, the Panel holds that the disputed domain name is identical for the purpose of the Policy to a mark in which the Complainant has rights.

As such the Panel holds that Paragraph 4 (a) (i) of the Policy has been satisfied.

Rights or Legitimate Interests

The Complainant has not authorised the use of its mark. There is no evidence or reason to suggest the Respondent is commonly known by the Domain Name. The use made by the Respondent of the disputed domain name is commercial and so cannot be legitimate non-commercial fair use.

The disputed domain name has been used for an on-line casino and for offering competing products to those of the Complainant. Use of a domain name containing a third party trade mark with a reputation for competing products or for gambling services is not a bona fide offering of goods or services.

The disputed domain name is not currently being used. Inactive use does not provide evidence of rights or legitimate

interests.

The Respondent has not answered the Complaint or provided any explanation of its activities.

As such the Panel finds that the Respondent does not have rights or a legitimate interest in the disputed domain name and that the Complainant has satisfied the second limb of the Policy.

Registered and Used in Bad Faith

Previous Panels have held that use of a trade mark with a reputation in a domain name to offer gambling services is both registration and use in bad faith.

Further use of an established trade mark for competing products is also registration and use in bad faith.

It seems clear the Respondent is diverting Internet users for commercial gain and thereby disrupting the business of the Complainant in opposition to the latter's interests.

The Domain Name is not currently being used. Passively holding of a domain name containing a trade mark can be further evidence of bad faith.

As such, the Panel believes that the Complainant has made out its case that the Domain Name was registered and 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. **GRANDDUKE.COM**: Transferred

PANELLISTS

Name	**Dawn Osborne, Ms. MARÍA ALEJANDRA LÓPEZ GARCÍA, Mr. Etienne Wéry**

DATE OF PANEL DECISION 2022-06-15

Publish the Decision