

Decision for dispute CAC-UDRP-104879

Case number **CAC-UDRP-104879**

Time of filing **2022-09-30 09:32:36**

Domain names **skodakodiaq.com**

Case administrator

Organization **Denisa Bilík (CAC) (Case admin)**

Complainant

Organization **ŠKODA AUTO a.s.**

Complainant representative

Name **JUDr. Jiří Čermák advokát**

Respondent

Organization **Dzone Inc**

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 owns various trade mark registrations worldwide for its SKODA trade mark including in particular International Trade Mark 197564D registered on June 26 1956 and designated in numerous countries. It also owns International Trade Mark registration 1303284 for KODIAQ registered on November 18, 2015 and is designated in numerous countries.

FACTUAL BACKGROUND

The Complainant is a vehicle manufacturer and has operated under the SKODA trade mark for automobiles since launching its first model on the market in the Czech Republic in 1928. In 1991 the Complainant became part of the Volkswagen group and its products are exported to Asia, Africa, South America and Australasia. It says that its KODIAQ mark is used for one of its most representative car models and also relates back to the founders of the Skoda brand.

The disputed domain name was registered on April 15, 2022 and diverts to a website stating "Click here! Need a price instantly? Contact Godaddy.com now..." and this site takes Internet users to another site stating "This domain may be for sale".

PARTIES CONTENTIONS

The Complainant submits that the disputed domain name wholly incorporates its SKODA mark (without the accent over the “S”) and also wholly incorporates its KODIAQ mark without any additional element before the “.com” top level domain name root. As a consequence, the Complainant submits that the disputed domain name is identical to the Complainant’s registered trade marks.

The Complainant says that the Respondent is in no way affiliated to the Complainant or to any company belonging to the same group as the Complainant and has no rights to the Complainant's trade marks whether under license or any other rights that would entitle the Respondent to register the disputed domain name. At the same time, neither the Complainant nor any of the companies in the Complainant’s group have granted any license to the Respondent to use the Complainant's trade marks or other intellectual property belonging to the Complainant. Furthermore, says the Complainant, the Respondent is not known under the designations of “Skoda”, “Škoda” or “Kodiaq”. It notes that searching for the phrase “skoda” or “kodiaq” in an Internet search engine does not turn up a single reference with respect to the Respondent.

The Complainant asserts that the Respondent registered and is using the disputed domain name with the intention of profiting from the goodwill attaching to the Complainant’s well-known or famous trade mark. This is because the disputed domain name does not divert to a functioning website, but instead to a website stating “Click here! Need a price instantly? Contact Godaddy.com now...” and this site diverts Internet users to another site which suggests “This domain may be for sale”. The Complainant submits that the absence of a real website indicates that the disputed domain name owner’s real purpose is to sell the disputed domain name back at a higher price which is a typical example of cybersquatting and that accordingly the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant submits that its trade marks were first registered in 1956 and well before the registration date of the disputed domain name. Since the disputed domain name was registered only recently (a few months ago), it is apparent, says the Complainant, considering the distinctiveness and reputation attaching to the Complainant’s marks, that the Respondent did not register the disputed domain name by chance and either failed to verify that the disputed domain name infringed the Complainant's earlier trade mark rights or, deliberately proceeded with registration and use regardless.

Further, the Complainant says that the Respondent intentionally registered the disputed domain name incorporating the Complainant's trade marks for its own commercial gain by using it to create a likelihood of confusion with the Complainant's trade marks so as to divert internet users to a website offering the disputed domain name for sale.

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).

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).

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).

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 Complainant has demonstrated that it owns registered trade mark rights for its SKODA and KODIAQ trade marks. The disputed domain name wholly incorporates both marks owned by the Complainant which are used in relation to one of its vehicle models. In particular the disputed domain name wholly incorporates the very well reputed SKODA mark (except for the accent which is not reproducible in a domain name). The addition of the Complainant’s KODIAQ mark only renders the disputed domain name more likely to

confuse Internet users and the Panel therefore finds that the disputed domain name is confusingly similar to the Complainant's registered SKODA mark and that the inclusion of KODIAQ does not prevent a finding of confusing similarity. Accordingly, the Complainant succeeds under paragraph 4(a)(i) of the Policy.

The Complainant has submitted that the Respondent is in no way using the disputed domain name to make a bona fide offering of goods and services. It says that the Respondent has no registered trade mark rights in SKODA or KODIAQ and that there is no evidence at all that the Respondent is commonly known by the disputed domain name. It has also submitted that the Respondent is not licensed or authorised to use the SKODA or KODIAQ mark and that none of this amounts to a bona fide offering of goods or services at the disputed domain name

The Complainant has further asserted that the Respondent registered and is using the disputed domain name with the intention of profiting from the goodwill attaching to the Complainant's well-known or famous trade mark on the basis that the disputed domain name does not divert to a functioning website, but instead to a website stating "Click here! Need a price instantly? Contact Godaddy.com now..." and this site diverts Internet users to another site which suggests "This domain may be for sale". The Complainant has submitted that the absence of a real website indicates that the disputed domain name owner's real purpose is to sell the disputed domain name back at a higher price which is a typical example of cybersquatting.

The Panel therefore finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name which case has not been rebutted by the Respondent and as a result that the Complainant succeeds under paragraph 4(a) (iii) of the Policy.

The Respondent registered the disputed domain name in April this year and many years after the Complainant first registered its SKODA trade mark in 1956. Considering that the SKODA mark is very distinctive and the very high degree of reputation attaching to it and also that the disputed domain name incorporates not just one but two of the Complainant's registered marks and redirects to a "for sale" page there is a very strong inference that the Respondent registered the disputed domain name knowingly and for its own commercial benefit.

Under paragraph 4(b)(i) of the Policy there is evidence of registration and use in bad faith where the circumstances indicate that the Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring it to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name

In the instant case the disputed domain name wholly incorporates the Complainant's registered and extremely well reputed house mark (SKODA) and the registered mark of one of its models of vehicle (KODIAQ) and then diverts Internet users to a page advertising the disputed domain name for sale. The very strong inference arising is that the Respondent intended to sell the disputed domain name to the highest bidder, who could very likely be the Complainant, or one of its competitors, in terms of paragraph 4(b)(i) of the Policy.

The bottom line is that this is a very blatant example of cybersquatting of the identical and highly distinctive house and brand marks of an internationally well reputed vehicle manufacturer. There is no explanation for this conduct by the Respondent and no apparent mitigating circumstances and it is exactly the sort of conduct that the Policy aims to proscribe.

Accordingly, the Panel finds that the disputed domain name has both been registered and used in bad faith and the Complaint also succeeds under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **skodakodiaq.com**: Transferred

PANELLISTS

Name	Mr Alistair Payne
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DATE OF PANEL DECISION	2022-11-16
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Publish the Decision
