

Decision for dispute CAC-UDRP-105085

Case number	CAC-UDRP-105085
Time of filing	2022-12-23 11:21:16
Domain names	urheiluveikkaus24.com

Case administrator

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

Organization	Veikkaus Oy
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Complainant representative

Organization	Berggren Oy
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Respondent

Name	Sirp Hederik De Wit
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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 has submitted evidence to show it owns numerous national trademark registrations in Finland which include:

- Registration number 49407 for VEIKKAUS, registered on 20 January 1967, in classes 16, 20, 22 and 24;
- Registration number 128212 for VEIKKAUS, registered 20 September 1993, in classes 16, 20, 22, 24 and 36;
- Registration number 248158 for VEIKKAUS, filed on 27 September 2005, and registered 15 February 2010 in classes 16, 20, 22 and 24;
- Registration number 2372244 for VAKIO VEIKKAUS, registered 31 October 2006 in classes 16, 25, 28 and 41;
- Registration number 237247 for V5 VEIKKAUS, registered 31 October 2006 in classes 16, 25, 28 and 41;
- Registration number 238854 for CASINO VEIKKAUS, registered 31 October 2006 in classes 16, 28 and 41;
- Registration number 238788 for LOTTO VEIKKAUS, registered 31 October 2006 in classes 16, 28 and 41;
- Registration number 248158 for VEIKKAUS, registered on 15 February 2010, in classes 35 and 42;
- Registration number 258391 for VEIKKAUS MAAILMAN PARHAALLE, registered 31 May 2013, in classes 9, 16, 28 and 41;
- Registration number 260074 for X VEIKKAUS EXPRESS, registered 31 December 2013, in classes 9, 16, 28, and 41;
- Registration number 261522 for VEIKKAUS POINTS, registered 30 July 2014, in classes 9, 16, 28, and 41;
- Registration number 266351 for VEIKKAUS, registered 8 April 2016, in classes 9, 16, 28, 35, 36, 38, 41 and 42;
- Registration number 267852 for VEIKKAUS, registered 16 June 2016, in classes 9, 16, 18, 25, 28, 35, 36, 38, 41, 42 and 43;
- Registration number 282712 for VEIKKAUS PLAY, registered 4 February 2022, in classes 9, 28, 35, 41, and 42; and
- Registration number 283980 for VEIKKAUS, registered 22 September 2022, in classes 9, 28, and 41.

The Complainant also owns numerous domain name registrations that include the term “veikkaus”.

FACTUAL BACKGROUND

The Complainant, Veikkaus Oy, is a state owned monopoly, which under Finnish law has the exclusive right to conduct lottery, game of chance and betting services in Finland. All the Complainant’s profits must be used for the benefit of society.

Veikkaus was formed in 1940 for sports betting. The term “sports betting” is “urheiluveikkaus” in Finnish. Veikkaus Oy was created in 2017 by the merger of the Finnish gaming operators Veikkaus (betting and lottery), Fintoto (horse racing) and RAY (casino).

The Complainant owns numerous national trademark registrations in Finland for VEIKKAUS that predate the registration of the disputed domain name. It also owns numerous domain name registrations that include the term VEIKKAUS, such as <veikkaus.com>; <veikkaus.fi>; <playveikkaus.com>; <veikkausgames.com>; <veikkauspoints.fi>; <playveikkaus.fi>; <liigaveikkaus.fi> and <moniveikkaus.fi>.

The Respondent registered the disputed domain name, <urheiluveikkaus24.com>, on 9 November 2021 using a privacy service. The disputed domain name resolves to a website in Finnish. It features information about the Complainant and its monopoly and about sports betting; it has links to third party gambling services.

THE PARTIES’ CONTENTIONS

The Complainant

The Complainant states that under Finnish law it is the only company entitled to offer gambling, betting and lottery in Finland. It operates under strict monitoring and control to ensure gaming is operated responsibly. The system aims to protect those engaging in games of chance, and to prevent gambling-related fraud. Any profit gained must be used for the benefit of society.

The Complainant asserts that the disputed domain name is confusingly similar to its VEIKKAUS trademarks, which predate the registration of the disputed domain name. It submits that:

- i. VEIKKAUS is the dominant feature of the disputed domain name. The Finnish word “urheilu”, meaning “sport” is a generic term the Complainant uses when it organises sports betting, and the number 24 refers to time, indicating it operates 24 hours a day;
- ii. Internet users are likely to assume that the disputed domain name belongs to the Complainant, as it is the only official and legitimate sports betting operator in Finland. About 40% of Finnish adults play VEIKKAUS games and use their betting services weekly, and more than 80% of adults have played VEIKKAUS at least once. Given the Complainant’s monopoly status in Finland, any references to “Veikkaus” on the Respondent’s website refers to the Complainant and utilises its goodwill and reputation, and indicates an awareness of the intellectual property rights its games; and
- iii. given that the Complainant owns similar domains names, such as <veikkaus.com>, <playveikkaus.com> and <veikkausgames.com>, consumers will presume that the disputed domain name is also owned by the Complainant, or it has some other close connection to it.

The Complainant asserts that the Respondent has no right or legitimate interest in the disputed domain name and states:

- i. the Complainant’s trademarks predate the registration of the disputed domain name;
- ii. the Respondent does not have any rights preceding those of the Complainant to the name “VEIKKAUS, nor any prior rights to “URHEILUVEIKKAUS24”;
- iii. the Complainant does not have any business relationship with the Respondent, nor is the Respondent affiliated with the Complainant, nor authorised to use the Complainant’s trademark, VEIKKAUS;
- iv. the linked website has information on different sports betting services of the Complainant and uses other trademarks owned by the Complainant, which proves that the Respondent knows the Complainant, its business and brands very well;
- v. the disputed domain name resolves to a website in Finnish which targets Finnish consumers. It provides links to gambling and betting sites that are in breach of Finnish law, citing “OHMYZINO”, which leads to casino and gambling websites in Finnish aimed at the Finnish consumer; and
- vi. the Respondent will derive income from the disputed domain name as it is used as a part of an affiliate marketing scheme.

The Complainant asserts that the disputed domain was registered and used in bad faith and says the Respondent:

- i. knew of the Complainant and its business when it registered the disputed domain name and incorporated commonly used search words to find sports betting services in Finland;

- ii. registered the disputed domain name in bad faith for profit and to prevent the Complainant from registering it for itself;
- iii. has used the disputed domain name with the intention of attracting Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's betting operations and its well-known VEIKKAUS trademark;
- iv. is not compliant with Finnish law and its actions cause harm and inconvenience to the Complainant's strictly regulated business and to Finnish consumers who may believe that a Finnish-language gambling website has some connection to the Complainant's well-regulated betting activities; and
- v. derives commercial benefit from users visiting its website and finding links to webpages that cannot be legally marketed to Finnish consumers, and even if it was not the Respondent's original intention to the cause harm to the Complainant, the consequences of the Respondent's actions have resulted in it doing so (See Paule Ka v. Paula Korenek, WIPO Case No. D2003-0453).

The Respondent

The Respondent asserts that:

- i. "Veikkaus" is a Finnish word verb meaning "betting" or "to bet", and is used in its Finnish domain name as in other connected domain names, such as <sportsbetting24.ca> in the Canadian market; <sportsbetting24.in> in the Indian market; and <urheiluveikkaus24.com> in the Finnish market;
- ii. it is impossible to stop other parties from using a particular word in a domain name: "veikkaus" is in the middle of the disputed domain name, behind "urheilu" and before "24" and being unique is not a trademark infringement, and it is not targeting <veikkaus.biz> or <veikkaus.net> but using a phrase including the word "veikkaus" plus the international top-level domain ".com";
- iii. many other sports or casino betting affiliate sites use the word "veikkaus" in their domain name; and the respondent is not promoting or monetising the sports betting brand Veikkaus but only sending traffic to other sports betting operators; and
- iv. the Finnish gambling market is not regulated and this might still be two or three years away, and the Respondent is not violating any rules but running a legal online affiliation sports betting company.

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

It is common ground that the Complaint is a state owned monopoly that conducts lottery, betting and games of chance in Finland. The Respondent says that changes to the Finnish gambling monopoly may be two or three years away. It states that it is not violating any rules and is running a legal online affiliation sports betting company and says: "the days that Veikkaus ruled this monopoly are soon

behind us. Licensing system is already on the drawing board.”

The merits or otherwise of the Finnish gambling monopoly, which is the subject of national laws of Finland, is not a something for determination in this forum. The Panel must decide the Complaint on the basis of the documents and statements submitted, and in accordance with the Policy, the Rules and any rules and principles of law it deems applicable (Paragraph 15(a) of the Policy).

Under Paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to succeed:

- (i) the disputed 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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. IDENTICAL OR CONFUSINGLY SIMILAR

The Complainant has provided evidence to show that it owns numerous trademark registrations for VEIKKAUS in Finland, such as registration number 248158, filed on 27 September 2005 and registered 15 February 2010.

The disputed domain name is comprised of the Finnish words “urheilu” and “veikkaus”, the number “24” and the generic top-level domain “.com”.

It is well recognised that the top level domain, such as “.com”, is a standard registration requirement. It adds no distinctiveness and may be disregarded when considering whether a disputed domain name is confusingly similar to a trademark in which the Complainant has rights. (See *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. D2006-0451).

Evidence submitted with the Complaint shows that VEIKKAUS has been used as a trademark since at least 2005 and its earliest registration dates back to 1967. The Finnish Patent and Registration Office (PRH) approved VEIKKAUS as a trademark with a reputation on 16 October 2018. The PRH website states that for a mark to be recognised as a trademark with a reputation, “the trademark must enjoy a reputation in a substantial part of Finland. On the basis of precedents of the Court of Justice of the European Union, the PRH also requires that the trademark must be familiar to a considerable part of the target group.”

In addition its literal meaning, VEIKKAUS has acquired distinctiveness and denotes the Complainant and its services. The average Finnish language speaker would understand VEIKKAUS to mean the Complainant and its gaming services. The Respondent acknowledges the brand when it refers in its Response to the “sports betting brand Veikkaus”.

The disputed domain name incorporates entirely the Complainant’s trademark VEIKKAUS. The Complainant’s trademark is recognisable in the disputed domain name. Combining it with the word “urheilu” meaning “sport”, which is closely associated with the Complainant’s business, and adding the number “24” does not add any distinctiveness, nor does it avoid a finding that the disputed domain name is confusingly similar to the Complainant’s trademark, VEIKKAUS. The confusing similarity is compounded because the disputed domain name resolves to a website that appears to target the Complainant’s trademark and includes links to websites that complete with the Complainant’s established business of online sports betting.

The Panel concludes that the disputed domain name is confusingly similar to the Complainant’s trademark, VEIKKAUS, and that the requirements of Paragraph 4(a)(i) of the Policy have been met.

B. NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant’s trademark predates the Respondent’s registration of the disputed domain name. The Respondent is not affiliated with the Complainant nor authorised to use the Complainant’s trademark. The Complainant does not have any business relationship with the Respondent. The website to which the disputed domain name resolves is in Finnish. It refers to the Complainant and its monopoly in Finland. It also provides links to other websites in competition with the Complainant, such as 1xBet, 888sport, and ReloadBet.

The Complainant has established a prima facie case that the Respondent has no right or legitimate interest in the disputed domain name. The burden of proof now shifts to the Respondent to show that it has relevant rights.

The Respondent may establish a right or legitimate interest by demonstrating in accordance with paragraph 4(c) of the Policy that:

- i. before any notice of the dispute, it has made preparations to use the domain name or a name corresponding to it in connection with a bona fide offering of goods or services; or
- ii. it is commonly known by the domain name, even if it has not acquired any trademark rights; or
- iii. it is making legitimate, non-commercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

The Respondent uses that term “sportsbetting24” in connection with its country code top level domains “.ca” and “.in”. Using an English term such as “sportsbetting24”, does not give the Respondent any rights to the Finnish translation of that term. The Respondent might be commonly known by the domain name “sportsbetting24”, but this does not mean that the Respondent is also commonly known by the Finnish translation of that name.

The disputed domain name is confusingly similar to the Complainant’s Finnish trademark. The Respondent’s website is in Finnish. It targets Finnish consumers and provides links to gambling and betting sites that compete with the Complainant. The Respondent uses the Complainant’s trademark and company name, VEIKKAUS rather than “sportsbetng24”, which the Respondent uses in Canada and India.

Incorporating the term VEIKKAUS in the disputed domain name falsely asserts an affiliation with the Complainant. Adding an additional generic term “urheilu” and the number “24” to VEIKKAUS does not make it unique.

The website related to the disputed domain name, makes numerous references to the Complainant, its games and monopoly in Finland. The Respondent appears to be targeting the Complainant and its business by linking betting and gaming sites in competition with the Complainant. While the Respondent says it is not promoting or monetising the sports betting brand VEIKKAUS, it is using a website that incorporates the name VEIKKAUS to send traffic to other sports betting operators in competition with the Complainant. This is not a legitimate, non-commercial or fair use of the disputed domain name, nor a bona fide offering of goods and services.

Having evaluated the evidence presented, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name and that the requirements of Paragraph 4(a)(ii) of the Policy have been met.

C. REGISTERED AND USED IN BAD FAITH

The Complainant’s trademark predates the registration of the disputed domain name, which is confusingly similar to the Complainant’s mark. The Respondent does not dispute that it knew of the Complainant and its business when it registered the disputed domain name and states: “The days that Veikkaus ruled this monopoly are soon behind us.”

The Complainant has submitted in evidence screenshots of the website related to the disputed domain name. The website is in Finnish and refers to the Complainant and its monopoly. The website includes links to other providers of betting and gaming services in competition with the Complainant. This goes beyond legitimate non-commercial criticism. By including links to competitors’ websites the overall impression is that the Respondent is targeting the Complainant and its customers, either to disrupt the business of the Complainant or to intentionally attempt to attract for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant and its mark.

The Respondent has not used the term “sportsbetng24”, which is uses in its other domain names. Instead, it uses the Finnish translation of that term, which includes the term VEIKKAUS. It is likely that those using the search term “veikkaus” and finding the Respondent’s website in Finnish with link to gaming and betting providers will assume that it has some connection with the Complainant. See Paule Ka v. Paula Korenek (WIPO Case No. D2003-0453): “The proper test in this Panel’s view, is whether the objective consequences or effect of the Respondent’s conduct is a free-ride on the Complainant’s goodwill, whether or not that was the primary (subjective) intent of the Respondent.”

Taking these factors into consideration, the Panel concludes the Respondent both registered and is using the disputed domain name in bad faith and that the Complainant has satisfied the requirements of 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. urheiluveikkaus24.com: Transferred

PANELLISTS

Name	Veronica Bailey
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DATE OF PANEL DECISION 2023-01-30

Publish the Decision