Decision for dispute CAC-UDRP-105107

Case number	CAC-UDRP-105107
Time of filing	2022-12-30 09:33:34
Domain names	veikkauskertoimet.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	Veikkaus Oy

Complainant representative

Organization	Berggren Oy

Respondent

Organization	RankTastic Media OU

Respondent representative

Organization	Hitfactor / Viestintäilme Oy

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 registered owner of Finnish trademark VEIKKAUS, registered in the Finnish Patent and Registration Office registration no. 248158.The trademark was applied for on 27 September 2005, registered on 15 February 2010 and valid until 15 February 2030.

FACTUAL BACKGROUND

The Complainant is a Finnish company engaged in the provision of gambling, betting, games of chance and related services in Finland. It has been so engaged for many years and, by Finnish statute law, it has a monopoly on the provision of those services in Finland.
The Complainant has an extensive range of trademarks and domain names that embody its name, VEIKKAUS. The specific trademark that it relies on in this proceeding is its Finnish trademark VEIKKAUS, registration no. 248158 which was registered on 15 February 2010.
The Respondent is the registrant of the disputed domain name <veikkauskertoimet.com> which was registered on 27 January 2018 and thus subsequently to the registration of the Complainant's trademark. That part of the domain name consisting of the word "kertoime" is the Finnish of the English word "odds".
It has come to the notice of the Complainant that the Respondent has registered the disputed domain name and used it to create a website which the Complainant maintains offers services that are in some cases identical to those of the Complainant, in some cases different from the Complainant's offerings and in some cases illegal in Finland. It has therefore brought this proceeding in which it seeks a transfer of the disputed domain name to itself. The Respondent has filed a Response in the proceeding.

Contentions of the parties.

Complainant

1. The Complainant is a Finnish company that operates a lottery, game of chance and other betting services in Finland. It is a government monopoly by virtue of Finnish statute law and distributes its profits for the public good. It is regulated and closely monitored by the Finnish state. It is in fact owned by the Finnish State.
2. It is widely patronised by the Finnish population.
3. The Complainant is the owner of the Finnish VEIKKAUS trademark, registration no. 248158 from 2005 which predates the registration of the disputed domain name <veikkauskertoimet.com> which was in 2018.
4. The Complainant also owns other prior trademarks for VEIKKAUS and a series of domain names using the name VEIKKAUS, such as <veikkaus.games>.
5. As it is a very well-known entity, any reference to the word Veikkau on the internet is understood in Finland to refer to the Complainant. This has come about because it was created in 2017 as an amalgam of three former operators, Fintoto (operating toto horse racing games), RAY (operating casinos) and Veikkaus itself (operating betting and lottery services) that were merged into a single company providing gambling, betting, and game of chance services, hence the name Veikkaus Oy. The word "oy" means "Limited" in the English language.
6. On 27 January 2018, the Respondent registered the domain name <veikkauskertoimet.com>.
7. The domain name consists of two words, "veikkaus" and "kertoimet". Veikkiaus is the name of the Complainant and "kertoimet" means "odds" in the English language. Thus, the clear intention of the Respondent in constructing the disputed domain name was to invoke and use the name of the Complainant and one of its main businesses, betting services.
8. The disputed domain name resolves to a website which is used to market and promote third-party betting games and, because the Complainant's name and VEIKKAUS trademark are included in the domain name, it uses the goodwill and reputation of the Complainant to achieve that objective.
9. Accordingly, by using the Complainant's name and trademark, the Respondent is using the domain name so that it will cause confusion with the Complainant and its brands and it is thus misleading consumers.
10. The information displayed on the Respondent's website is related to Complainant's own services, namely, betting or games of chance and third party gambling services including online casinos, which are being provided in violation of the Finnish legislation.
11. The Respondent's website provides links to Finnish gambling sites that are in breach of Finnish law. There are also several commercial links to gambling, games of chance, and betting services that are not provided by the Complainant.
12. The information conveyed by the Respondent is in the Finnish language and is therefore aimed at Finnish users.
13. The disputed domain name is identical and /or confusingly similar to the Complainant's trademark. That is so because it includes the name and trademark of the Complainant and internet users would assume therefore that it was referring to the Complainant and, because of the addition of the word "kertoimet", meaning "odds" in English, that it dealt with activities of the Complainant relating to betting, gambling and gaming. The Respondent is neither affiliated with the Complainant nor authorized by it to use the trademark VEIKKAUS.
14. The Respondent does not have a right or legitimate interest in the dispute domain name. That is so because in addition to providing information about betting services in Finland, there are several commercial links on its resolving website to gambling, games of chance, and betting services that are not provided by the Complainant, leading to confusion.
15. The domain name is also used to provide rival gambling information to that of the Complainant and also to attract business to competitors because Finnish users will assume that these offerings must be legal and coming from the Complainant because that is the only way they could be offered in Finland.
16. The Respondent's website is in Finnish and emanates from Estonia. This will induce Finnish users in Finland to think that it comes from the Complainant.
17. The Respondent has registered and used the disputed domain name in bad faith. That is so because it has been registered and used to attract internet users to the Respondent's website by creating a likelihood of confusion with the registered and well-known VEIKKAUS trademark and the betting services of the Complainant.
18. The Respondent had actual knowledge of the Complainant, its name, business and trademark when it registered the disputed domain name and consequently when it used the domain name.
19. The Respondent's website contains several links to gambling sites that are illegal in Finland such as Tonybet, Mobilebet and Galaksino, which all claim to be Finnish and tax free. As such, the Respondent will derive income and benefit commercially from the disputed domain name as it is used as a part of affiliate marketing scheme which is a source of income.
20. The online casinos promoted by the Respondent are illegal in Finland and could not be operated from there.
21. In addition to providing information about betting services in Finland, there are several commercial links to gambling, games of chance, and betting services that are not provided by Veikkaus.
22. The Article 11 of the Finnish Lottery Act (23.11.2001 / 1047) stipulates that Veikkaus has the exclusive right to conduct lottery, betting and games of chance in Finland. According to Article 12 of the same Act, "The company's task is to engage in gambling

activities in such a way as to guarantee the legal security of participants in gambling, to prevent abuses and crimes and to prevent and reduce economic, social and health harm caused by gambling." The Complainant is a state-owned company with many responsibilities related to gambling operations.
23. The disputed domain name should be transferred to the Complainant.

Respondent
1. The Respondent requests the Panel to deny the remedies requested by the Complainant and to order that the disputed domain name remain with the Respondent.
2. The Complainant must prove each of the three criteria set out in Paragraph. 4(a)(i), (ii), (iii).
A. Whether the domain name is identical or confusingly similar to a trademark in which the Complainant has rights; (Policy, Paragraph 4(a)(i))
3. According to the complainant, the disputed domain name <veikkauskertoimet.com> comprises Complainant's trademark, namely the word "veikkaus" and the word "kertoimet", which translates to "odds".
4. As said by the Complainant, there are several commercial links (on the Respondent's website) to various gambling, games of chance, and betting services that are not provided by the questionable Finnish monopoly.
5. The domain name cannot be considered identical or confusingly similar to a no distinctive enough trademark in which Complainant has rights. "Odds" does not have any distinctive character. Also, the word "veikkaus" does not have any distinctive character. It is a generic term that is directly linked to betting services (Kielitoimiston sanakirja: veikkaus =1. guessing; guess2. gambling games in which participants try to predict the results of certain football matches, e.g. trotting competitions. Standard bet).
6. Internet users of www.veikkauskertoimet.com are not likely to assume that the disputed domain name <veikkauskertoimet.com> belongs to the Complainant.
7. Veikkaus is only one of many betting service providers in Europe and it is easy to see, that www.veikkauskertoimet.com is website that compares to customer's advantage the services offered by different service providers by giving information about many of the betting services in Europe. As said by the Complainant, there are several commercial links to various gambling, games of chance, and betting services that are not provided by questionable Finnish monopoly. All this information is likely to lead consumers to make better and more sustainable choices. Consumers all over Europe search services that are not connected to state owned monopoly services.
8. Within Europe, regulatory practices differ, which means that not all operators are subject to the same standard of regulation. Today online betting is available in the whole Europe and there are Finnish (sic) customers all over the continent. Service providers offer their services in European languages. The old school monopoly business in some European countries are soon history. Even in Finland that kind of unfair and unproductive monopoly is coming most likely to an end. There has long been opposition to the Finnish monopoly system. Many industry groups have made calls for the monopoly to end, while in 2023 a legislative committee said the current system is "practically broken" and other methods should be considered, if Veikkaus' monopoly can no longer be implemented.
9. Using generic terms like "veikkaus" and "odds" should be free to all betting service providers and other businesses based in Europe. According to our opinion the trademark "veikkaus" is not distinctive enough for services related to betting.

B. Whether the Respondent has rights or legitimate interests in respect of the domain name (Policy, Paragraph 4(a)(ii))
10. Respondent registered the domain veikkauskertoimet.com on 27.1.2018.
11. It has also used their trademark to their services on those international websites since 2018.

12. As submitted above, Veikkauskertoimet.com is a website that compares the services offered by different service providers to customer advantage by providing information about the legal betting services in Europe.
13. The Respondent claims to have rights and legitimate interests in respect of the domain name. Veikkauskertoimet.com's business does not compete with Veikkaus or other betting companies. They do not use the trademark in connection with betting services. They have used their domain and trademark 5 years for their own services, which differ clearly from betting services.
14. While betting services in Finland are strictly regulated and may only be provided by Veikkaus, the services which compare the services offered by different service providers to the customers' advantage are completely legal in Europe including in Finland.
15. However, the company that is holder of the domain name veikkauskertoimet.com is based in Estonia. Unhealthy monopoly-companies do not realize that in a year 2023 there are many service providers that offer their services online and the geographically static mindset related to conducting business is history.
16. It is easy to understand that Veikkaus has not even heard about the domain name <veikkauskertoimet.com> until recently. That is because the service is located to another country and branch of business differ. It is somewhat strange that there are still people who think that they can stop other from using generic terms in their business.
17. Abovementioned fact is also a proof that Veikkauskertoimet.com domain and the website have not caused likelihood of confusion with Veikkaus brands, and the domains. During the last five years, there have been no signs that any consumer was misled.
C. Whether the domain name[s] [has/have] been registered and [is/are] being used in bad faith (Policy, Paragraph 4(a)(iii))
18. The Complainant and the Respondent are not competitors and the domain name was not registered by the Respondent to disrupt the Complainant's business in any way.
19. As said, there are no earlier identical or confusingly similar trademarks or domain names which cover same or even similar kind of business activities. The domain name veikkauskertoimet.com has been registered and used in good faith as an address and trademark for website that compares the services offered by different service providers to customer advantage by providing information about many the betting services in Europe. It is simply a very descriptive word that means "betting odds", and it is amazing that Veikkaus, a company located in another geographical area, is trying to hinder the operation of veikkauskertoimet.com as if it were the last act of a dying dinosaur to prevent others.
20. The Complaint should therefore be dismissed.

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

DISCUSSION OF THE ISSUES

Identical or Confusingly Similar

The first question that arises is whether the Complainant has a trademark on which it can rely in this proceeding. The Complainant submits that it is the owner of the Finnish VEIKKAUS trademark registration no. 248158 registered in 2005, which predates the registration of the disputed domain name **<veikkauskertoimet.com>**, which was on 27 January 2018.The Complainant has submitted in evidence a record of its trademarks, supported by certificates from the Finnish Patent and Registration Office showing that the Complainant is the owner of various trademarks incorporating the Complainant's name. One of them is No. 248158 for VEIKKAUS, which is in the name of the Complainant, was applied for on 27 September 2005, registered on 15 February 2010 and is valid until 15 February 2030. The Panel has examined and considered that record and finds that it is in order.

The Respondent argues that this trademark cannot be relied on because it is not "distinctive." The Panel does not agree. The trademark is distinctive because although it may have had its origins in the gambling process and been derived from the activity of betting, it is the Complainant's name. In any event, it has been registered as a trademark and the Panel cannot go behind that fact, because the Finnish Patent and Registration Office must have gone through the process of examining the application for the trademark, whether it met the requirements of the Trade Marks Act 544/2019 of Finland and its predecessors, whether there were objections to the grant of the trademark and, if there were, how they were resolved. The trademark was issued and on the presumption of regularity, apart from anything else, the Panel must give due recognition to that fact. The Panel has examined the Trade Marks Act 544/2019 of Finland and notes that it makes provision for the registration of trademarks and for their revocation in specific cases, but on the evidence there has been no application to revoke the trademark in question. Moreover, this Panel has no jurisdiction to engage in any such process of questioning the validity of the trademark.

The Panel therefore finds that the Complainant is and was at all material times the registered owner of the VEIKKAUS trademark.

The next question that arises is whether the disputed domain name is identical or confusingly similar to the VEIKKAUS trademark. The disputed domain name is not identical to the trademark because it consists of the VEIKKAUS trademark, but with the additional word "kauskertoimet".

However, the domain name is confusingly similar to the trademark because by far the dominant part of the domain name is "veikkaus", which is the Complainant's trademark, and the reader's attention is first drawn to that word. Moreover, the Finnish word "kauskertoimet" in the domain name is the equivalent of "odds" in the English language and is a generic word that naturally colours the "veikkaus" part of the domain name which is the Complainant's name and trademark. Thus, the clear intention of the Respondent in constructing the disputed domain name was to invoke and use the name and trademark of the Complainant and to refer to one of its principal activities, namely determining betting odds. The internet user who saw the domain name would therefore naturally consider that it may well be an official domain name of the Complainant and that it would lead to an official website of the Complainant dealing with the odds given in a gambling or related activity being offered by the Complainant. The combination of

those circumstances leads to the conclusion that the domain name may well be identifying the Complainant and one of its principal functions, giving rise to the confusing similarity between the domain name and the Complainant's trademark.

The Respondent has submitted the contrary, namely that:

"Internet users of www.veikkauskertoimet.com are not likely to assume that the disputed domain veikkauskertoimet.com belongs to the Complainant."

There is no basis for such a conclusion on the facts as they are known and the Panel does not accept it. Internet users, particularly in Finland, would be more likely than not to assume that the domain name was invoking the name and trademark of the Complainant and one of its principal activities.

The Panel therefore finds that the disputed domain name is confusingly similar to the Complainant's VEIKKAUS trademark.

It is not strictly necessary for this part of the decision, but is very relevant to the following two sections of the decision concerning rights and legitimate interests and bad faith, to say that the Panel's finding is not only that the domain name is confusingly similar to the trademark, but that the domain name was probably chosen by the Respondent with the intention of copying the Complainant's name and trademark and to suggest falsely that it, the Respondent, actually was the Complainant and that it was offering betting odds under that name. Of all the names and words available to it to make up the domain name, including its own name, the Respondent chose the Complainant's name and trademark and one of the Complainant's principal activities, to constitute its domain name. Accordingly, internet users would assume that the domain name belonged to the Complainant. The Panel concludes that the Respondent did this because it wanted to give the impression that it was the Complainant and that it was offering betting odds under that name.

The Complainant has therefore made out the first of the three elements that it must establish.

Rights or Legitimate Interests

The next issue is whether the Respondent has made out a right or legitimate interest in the disputed domain name. That issue will be resolved by considering the provisions of paragraph 4(c) of the UDRP Policy and any other circumstances made out by the evidence. It is generally accepted in this jurisdiction that the first obligation on a registrant is to show that it has a prima facie case.

One of the provisions of paragraph 4(c) of the UDRP Policy can be quickly disposed of, as there is no evidence to support its use in the present case, namely whether the Respondent is commonly known by the domain name.

Can the Respondent show that it has a right or legitimate interest in the domain name under paragraph 4(c)(ii) of the UDRP Policy?

The Respondent does not submit that it is commonly known by the domain name within the meaning of paragraph 4 (c) (ii) of the UDRP. That is so because there is no evidence that the Respondent, RankTastic Media OU, is commonly known as <veikkauskertoimet.com>.

The Respondent must therefore find some other ground, other than that it is commonly known by the domain name, that gives it a right or legitimate interest in the domain name.

Paragraph 4(c) of the policy gives the Respondent two other grounds on which it is open to a registrant to show that it has a right or legitimate interest in the domain name.

Can the Respondent show that it has a right or legitimate interest in the domain name under paragraph 4(c)(i) of the UDRP Policy.

The first of those grounds, under paragraph 4(c)(i), is that the registrant of the domain name is using the domain name for a bona fide offering of goods or services and that it was doing so before it was given notice of the dispute. The Respondent's principal argument on this issue seems to be that it is only providing factual information and that that is a bona fide use. The Panel does not accept either of those submissions. The reason why the Panel does not accept those submissions is that the content of the Respondent's website is not simply factual information and, however it is categorised, it is not bona fide.

The way the Respondent puts it to support those arguments, is that its domain name is "generic". However, the domain name as a whole is not generic, as it includes the Complainant's name and trademark which are not generic but specific. The only part of the domain name that is generic is "kertoimet", meaning "odds" in the English language, and when the whole domain name is looked at, it is clear that its message is that this is a domain name dealing not with gambling odds in general by way of information, but specifically with the gambling or betting odds offered by or at least via the well-known company Veikkaus, because it includes "veikkau" in the domain name as its prominent part.

The Respondent's first argument is that the domain name "compares the services offered by different service providers to customer advantage by providing information about the legal betting services in Europe." It may well be true that this is one use to which the domain name and its resolving website are put. But it goes further than that and much further. In fact, it could be said that the difference between the parties is that the Respondent maintains, in substance, that its website is merely, or only, providing information about different gambling offerings available in Europe and that it is left to the consumer to do what it will with that information. The Complainant, however, maintains that the Respondent's website contains information that the consumer is actually invited to use and that it contains links that the consumer is invited to follow and use. That, after all, is the purpose of a "portal", the word used by the Respondent on is website to describe exactly what it is.

The Panel's view is that even if the Respondent put bare factual information about gambling services on its site, and only that information, that would not give it a right or legitimate interest in the domain name. That is so because the domain name includes the Complainant's trademark which is thus being used, without the consent of the Complainant, to convey information about rival and competing services and, apparently, some services that are not available in Finland as they are illegal in that country.

But as noted above, the Respondent's website goes further than merely giving information and in reality it is inviting consumers to contact and bet with those services. Again, in doing so, the Respondent is using the Complainant's trademark.

The Complainant submits: "As stated above, the website veikkauskertoimet.com contains information and links to different betting services".

It also submits: "In addition to providing information about the betting services in Finland, there are several commercial links to gambling, games of chance, and betting services that are not provided by Veikkaus. All this information is likely to lead to consumer confusion."

It also submits:

"With reference to the documents in Annex 3[1], namely printouts taken from veikkauskertoimet.com website, the marketing of the Finnish online casinos, including the direct links to these websites on the veikkauskertoimet.com website, is exploitation of the domain for commercial purposes. The website veikkauskertoimet.com provides direct links to the paid online casinos and if a person creates an account for and plays games on the site, the owner of the veikkauskertoimet.com domain will receive provision of any revenue or similar monetary compensation. The online casino service providers offer so called affiliate programs to the owners of interesting and attracting domain name registrations."

So far as the Panel is able to tell, these submissions by the Complainant are borne out by the evidence. The evidence make it clear that the website carries more than mere information and that the links on the website lead to gambling sites which, by necessary implication, the consumer is being invited, and given the opportunity, to use.

Perhaps most importantly, the Respondent's website clearly offers services, namely the services of the gambling platforms set out in detail on the website. Beside each of the platforms are the words "pelaa nyt" which may be translated from the Finnish to the English as "play now", which is a clear exhortation to use the service and as a direct means of using it. What is being promoted, therefore, are specific gambling services and an exhortation to use them. That use goes far beyond providing mere information.

Moreover, the use is not bona fide because the services promoted are being made available to potential users under the guise of a domain name the dominant part of which is a clear copy of the Complainant's name and trademark which is being used, potentially in Finland, and without consent.

Accordingly, it cannot be said that the Respondent has made out a prima facie case to bring itself within paragraph 4(c)(i) of the Policy.

Can the Respondent show that it has a right or legitimate interest in the domain name under paragraph 4(c)(iii) of the UDRP Policy?

The second way of showing a right or legitimate interest in the domain name, apart from the registrant being commonly known by the domain name, is by means of paragraph 4(c)(iii) of the Policy. That is where the registrant of the domain name making "a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark." However, in the present case, the use is not legitimate because it is part of a scheme that uses the name and trademark of the Complainant; it is not in any sense non-commercial, because it is part of a scheme for the Respondent to earn money; it is not fair because of the use of the Complainant's name and trademark; and it has the potential to mislead consumers by diverting them away from the Complainant and to use the Respondent's offerings which tarnishes the proper use of the Complainant's name and trademark.

The Respondent therefore fails to make out a prima facie case that it has a right or legitimate interest in the domain name under paragraph 4(c)(iii) of the Policy.

Can the Respondent show that it has a right or legitimate interest in the domain name because of other circumstances than those under paragraph 4(c) (i), (ii) and (iii) of the UDRP Policy.

As well as those specific grounds, it is open to a registrant under paragraph 4(c) of the Policy to rely on any other circumstances, without limitation, that are "found by the Panel to be proved based on its evaluation of all of the evidence presented…". The Panel has evaluated all of the evidence presented and finds that there are no other circumstances that show that the Respondent has a right or legitimate interest in the domain name. The Panel's evaluation of the evidence as a whole shows that the Respondent has taken the Complainant's name and trademark without permission, used them as the dominant part of its domain name and used it to provide avenues for gambling and related services that, on the Complainant's evidence, are in some cases, the same as the Complainant's services, in some cases competitive with them and in some cases illegal in Finland where the Respondent purports to conduct its business.

Here it must be said again that the Respondent is using a domain name, the most dominant part of which is the Complainant's trademark, and without consent, to disseminate the offerings of rival businesses.

It should also not be forgotten that the Complainant's submissions go even further. It submits:

“The Respondent will benefit from brands of Veikkaus as they attract users of Veikkaus games. The Respondent seeks commercial benefit from directing the consumers to such gambling pages that are prohibited in Finland. Having a person to use the links on Respondent's websites will result in monetary compensation under affiliate marketing scheme. In practice, this means that because of the domain is veikkauskertoimet.com, a consumer who wants to search the Internet for information about Veikkaus' and its betting services, will be taken to websites that are not provided by Veikkaus and that cannot be legally marketed in Finland.”

The Panel concludes from the evidence and drawing reasonable conclusions from it, that those submissions by the Complainant are correct and the Panel accepts them.

Together, they make it plain that as well as the Respondent having no right to register the domain name at all, it has no right or legitimate interest in using it for a purpose so inimical to the rights and interests of the Complainant as the trademark owner. In particular, it appears from the evidence that some of the sites promoted or for which links are provided by the Respondent are not sites provided by the Complainant at all and some of them are illegal under Finnish law. The Panel mentions this to show again that the Respondent is using the Complainant’s trademark to promote services that are outside and beyond those of the Complainant.

Taken as a whole, the evidence shows that the Respondent has not made out a prima facie case that it has brought itself within any of the provisions of paragraph 4(c) of the Policy.

Accordingly, the Complainant has therefore made out the second of the three elements that it must establish.

Bad Faith Registration and Use

The Complainant submits that the Respondent registered and has used the disputed domain name in bad faith within the meaning of paragraph 4 (b) of the UDRP Policy.

Paragraph 4 (b) of the Policy sets out the circumstances that will show that the registrant of the domain name registered and used the domain name in bad faith. It is clear that to establish bad faith, Complainant must show both that the disputed domain name was registered in bad faith and that it has been used in bad faith. It is also clear that the criteria set out in paragraph 4(b) for establishing bad faith are not exclusive, but that Complainants in UDRP proceedings may also rely on conduct that is bad faith within the generally accepted meaning of that expression.

Dealing with the first ground of bad faith, under paragraph 4 (b)(i), the Complainant is not relying on that ground, probably because there is nothing to show that the primary purpose of the Respondent was to sell or rent the domain name to the Complainant. It is more likely that the intention of the Respondent was to keep the domain name and use it to further its intention of ending the Complainant’s monopoly.

Nor does it seem that the real intention of the Respondent was to prevent the Complainant from registering the same domain name within the meaning of paragraph 4(b)(ii) although that would be the inevitable result of the Respondent retaining the domain name.

However, it seems clear, and the Panel so finds, that the Respondent’s primary objective was, within the meaning of paragraph 4(b)(iii), to disrupt the business of the Complainant which it saw as a competitor. Indeed, the Respondent asserts that this is and was its intention, because it sees itself as a reformer, ready to break down the allegedly unjustified and out of date gambling and related monopoly that the Complainant has in Finland and which it, the Respondent, describes as being a “dying dinosaur”. It also submits that its conduct in that regard is justified in the pursuit that objective.

The Respondent says in effect that it wants to disrupt the monopoly business of the Complainant for a good reason, namely that it has outlived its usefulness and that it, the Respondent, was spreading factual information to bring that eventuality about. However, the flaw in that argument is that although it might justify action of some sort by the Respondent by using legitimate means to dismantle the monopoly, it does not justify appropriating the Complainant’s trademark, using it against the Complainant and passing itself off as the Complainant, all of which the Panel finds that it did. Essentially, the Respondent must be seen on the evidence to have registered and used the domain name primarily to damage the Complainant by the course it has followed, which amounts to registering and using the domain name in bad faith.

The Complainant has therefore made out its case that the Respondent has registered and used the domain name in bad faith within the meaning of paragraph 4 (b)(iii) and the Panel so finds.

The Panel also finds that the case comes within paragraph 4 (b) (iv), that is to say, that bad faith may be seen:

“(iv) by using the domain name, you (the Respondent) have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

In that regard, the Panel finds that the Respondent set about creating the likelihood that internet users would be confused as to whether the website to which the domain name resolved was a genuine VEIKKAUS site or not. The Respondent generated this confusion by appropriating the Complainant’s VEIKKAUS name and trademark, adding the “kertoimet” appendage, setting up the website and loading it with links to, and other material about, the Complainant’s competitors, services the Complainant did not offer itself and also, on the evidence, some illegal offerings. The Panel finds that that conduct was not done in good faith, but to cause confusion and in bad faith, that those conclusions apply equally to the registration and the use of the domain name and that the Respondent was motivated by the prospect of commercial gain.

The Complainant has therefore made out its case that the Respondent has registered and used the domain name in bad faith within

the meaning of paragraph 4 (b)(iii) of the Policy and the Panel so finds.

The Panel therefore finds that the Respondent registered and is using the domain name in bad faith within the meaning of both paragraph 4 (b)(iii) and (iv) of the Policy.

Finally, in addition and having regard to the totality of the evidence, the Panel finds that, in view of Respondent's registration of the disputed domain name using the VEIKKAUS mark and in view of the conduct that Respondent has engaged in when using the domain name, Respondent registered and used it in bad faith within the generally accepted meaning of that expression.

Accordingly, the Complainant has made out the third of the three elements that it must establish.

The Complainant has made out its case in the proceeding and is entitled to the relief that it seeks.

The Panel will therefore make an order that the disputed domain name, **<veikkauskertoimet.com>** be transferred to the Complainant.

[1] The Complainant's exhibit that gives details of a range of gambling and related websites.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **veikkauskertoimet.com**: Transferred

PANELLISTS

Name	**Neil Brown**

DATE OF PANEL DECISION 2023-02-01

Publish the Decision