

Decision for dispute CAC-UDRP-105108

Case number CAC-UDRP-105108

Time of filing 2022-12-30 09:18:45

Domain names veikkauslotto.com

Case administrator

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

Complainant

Organization Veikkaus Oy

Complainant representative

Organization Berggren Oy

Respondent

Organization Arctic Marketing Ltd

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, Veikkaus Oy is a lottery, a game of chance and betting service provider operating in Finland. Veikkaus was founded in 1940 for sports betting in Finland. This information can also be read at Veikkauslotto.com. The domain name "veikkauslotto" consists of prior VEIKKAUS and LOTTO trademarks of the Complainant. Veikkaus is the only legally operating betting and game of chance service provider in Finland. It holds a monopoly position that is based on law. As the Finnish law contains rules and processes for use of the company's profits for the benefit of the society, the games of Veikkaus enjoy strong goodwill.

Veikkaus is, among others, the owner of the Finnish VEIKKAUS trademark registration no. 248158 from 2005. According to Global Brand Database the trademark no. 005011408 "VEIKKAUS" was registered on April 28, 2009. The registration of the trademark predates the registration of the disputed domain name <veikkauslotto.com>. In addition to this VEIKKAUS trademark, Veikkaus has several other prior wordmark and device trademark registrations including the name Veikkaus. Betting and lottery draw services may only be organized by Veikkaus in Finland. The Complainant has registered domains fully incorporating its VEIKKAUS trademark such as <Veikkaus.fi>, <Veikkaus.com>, <Veikkaus.eu>, <Veikkaus.games>, <Veikkausgames.com>, <liigaveikkaus.fi> and <vakioveikkaus.fi>.

FACTUAL BACKGROUND

It has recently come to the Complainant's attention that the disputed domain name <veikkauslotto.com> was registered on 17

March 2014. "Veikkauslotto" translates to "bettinglottery" in English. The information shared on the website veikkauslotto.com relates to main businesses of Veikkaus, namely, betting and lottery draw services. The disputed domain name <veikkauslotto.com> leads to a page, where all the information is mostly about betting or lottery draw service called LOTTO. All the information is provided in Finnish and in violation of Finnish game of chance legislation.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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

I. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant contends that disputed domain name <veikkauslotto.com> is confusingly similar to the Complainant's trademarks "VEIKKAUS" and "LOTTO". Veikkaus is the only legally operating betting and game of chance service provider in Finland. It holds a monopoly position that is based on Finnish laws and is owned by the Finnish state. According to the Complainant, about 40 percent of adult Finns play Veikkaus games and use their betting services weekly and, more than 80 percent of Finnish adults have reported playing Veikkaus games at least once. The Complainant, Veikkaus Oy, is the owner of several Finnish trademark registrations including the "VEIKKAUS" name.

The disputed domain name was registered on March 17, 2014. The disputed domain name <veikkauslotto.com> incorporates the Complainant's trademark in its entirety by comprising of Complainant's trademarks VEIKKAUS and LOTTO. Internet users are likely to assume that the disputed domain name <veikkauslotto.com> belongs to the Complainant. The addition of the gTLD ".com" does not add any distinctiveness to the disputed domain name.

The Panel therefore concludes that the disputed domain name is confusingly similar to a trademark in which the Complainants have rights within the meaning of paragraph 4(a)(i) of the Policy.

II. The Respondent has no rights or legitimate interests in respect of the disputed domain name.

Although the Respondent did not file an administratively compliant (or any) response, the Complainant is still required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the

Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant in the present case has not licensed or authorized the Respondent to register or use its trademarks or the disputed domain name. There is no evidence that the Respondent is known by the disputed domain name or owns any corresponding registered trademarks. As the website veikkauslotto.com is based in the Finnish languages and targets Finnish consumers, and 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, similar operations advertised on the underlying website have breached Finnish laws.

On the basis of preponderance of evidence, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

III. The use and registration of the disputed domain name by the Respondent has been done in bad faith.

First of all, the registration of the disputed domain name by the Respondent was done in bad faith. UDRP panels have consistently held that the mere registration of a domain name that is confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. With the reputation of the VEIKKAUS trademark in Finland and among Finnish consumers, the presumption arises that the disputed domain name was registered with the intention to attract Internet users by creating a likelihood of confusion with the well-known VEIKKAUS trademark. Also, as the gambling business is strictly regulated in Finland and the Complainant has the legally monopolistic right to operate such services, the registration is clearly in breach of Finnish laws.

Secondly, the use of the disputed domain name was in bad faith. Bad faith is found in cases when a Respondent seeks to take unfair advantage of, abuse, or otherwise engage in behaviour detrimental to the Complainant's trademark (see WIPO Overview 3.0, par. 3.1). By including direct links (such as <https://ilmaiskierroksia.info/> and <https://www.ilmaistapelirahaa.org>) to third party gambling services on the underlying website, the Respondent seems to be intentionally attempting to attract, for commercial gain, internet users to his websites, by creating a likelihood of confusion. According to paragraph 4(b)(iv) of the Policy, "by using the domain name, you 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", if found by the Panel, shall be considered evidence of registration and use of the disputed domain name in bad faith.

Therefore, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel determines that the Complainants have failed to provide that disputed domain name was registered and is being used in bad faith within the meaning 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. veikkauslotto.com: Transferred

PANELLISTS

| | |
|------|--------------|
| Name | Carrie Shang |
|------|--------------|

DATE OF PANEL DECISION 2023-02-09

Publish the Decision
