Decision for dispute CAC-UDRP-102709

Case number	CAC-UDRP-102709
Time of filing	2019-10-10 11:24:23
Domain names	shark-gaming.com

Case administrator

Name	Iveta Špiclová (Case admin)

Complainant

Organization	Shark Gaming Systems A/S

Complainant representative

Organization	Paragraf Advokaterne ApS

Respondent

Organization	Smit Electrovic d.o.o.

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending or decided proceedings which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of EUTM Registration No 13685078 for SHARK GAMING SYSTEMS registered since 12 May 2015. It owns www.sharkgaming.com.

FACTUAL BACKGROUND

Complainant offers computer games through its domain name <sharkgaming.com>.

The disputed domain name was created in November 2011 when it redirected to www.whiteshark.biz/en/. Respondent is a direct competitor to Complainant, since both sell equipment meant for computer gaming.

Complainant reached out to the Respondent who responded by promising to stop using the disputed domain name after a certain grace period during which they would redirect to their new domain.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant’s contentions can be summarised as follows:

Disputed domain name is confusingly similar to Complainants’ trademark and domain name <sharkgaming.com>.

Respondent has no legal rights or legitimate interest in respect to the disputed domain name.

Respondent has registered and used the disputed domain name in bad faith, by:

a. Registering the domain name in order to prevent trademark owner and competitor from acquiring the disputed domain name.

b. Registering domain name in order to disrupt the business of their competitor.

c. Attempting to attract Internet users to their website, for commercial gain, by creating a likelihood of confusion with Complainant’s trademark.

The disputed domain name is confusingly similar to the Complainant’s trademark since it incorporates the mark in its entirety simply dividing shark and gaming with a “-“.

Respondent created the disputed domain name in bad faith, knowing about the Complainant since a simple google-search would have revealed this. Furthermore, it is not normally attractive to use “-“ in division of words in domains, unless it is for the sole purpose of leeching by redirecting costumers. Use of the disputed domain name <shark-gaming.com> is confusingly similar to <sharkgaming.com> and have been done for commercial gain while attempting to disrupt a direct competitor. The disputed domain name also redirects to www.whiteshark.biz/ which makes the attempt to leech on a registered trademark apparent.

Respondent agreed to stop using the disputed domain name after a grace period, but has continued to use the disputed domain name in breach of that agreement.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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 disputed domain name is confusingly similar to the Complainant's registered trade mark SHARK GAMING SYSTEMS, omitting only the generic word 'systems' and adding only a hyphen and the gTLD .com which do not prevent such confusing similarity.

The disputed domain name was registered after the Complainant obtained its trade mark registration for SHARK GAMING SYSTEMS and has been pointed to a site offering competing computer games. The Respondent appears to be known as WHITE SHARK and does not appear to be commonly known as SHARK GAMING. The disputed domain name was registered without the authorisation of the Complainant. When challenged by the Complainant the Respondent agreed to stop using the disputed domain name after six months, but has not stopped using the disputed domain name in accordance with that agreement. The Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

The disputed domain name has been used to redirect Internet users to competing computer games services and goods. The Panel finds that this was intended to disrupt the business of a competitor and to attract Internet users to the Respondent's website, for commercial gain, by creating a likelihood of confusion with Complainant's trademark.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SHARK-GAMING.COM**: Transferred

PANELLISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2019-11-15

Publish the Decision