

Decision for dispute CAC-UDRP-105190

Case number **CAC-UDRP-105190**

Time of filing **2023-02-10 09:14:17**

Domain names **kaufmanbroadilip.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **KAUFMAN & BROAD EUROPE**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Name **pierre beauvin**

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 several trademarks comprising the wordings “KAUFMAN BROAD”, such as:

- the European trademark KAUFMAN BROAD n° 001505916 registered since 2000-02-14;
- the international trademark KAUFMAN BROAD n° 736440 registered since 2000-03-24.

The Complainant is also the owner of many domain names comprising the wordings KAUFMAN and BROAD, such as <kaufmanbroad.com> and <kaufmanbroad.fr>.

FACTUAL BACKGROUND

Created in 1968, the Complainant is a real estate development and construction company headquartered in Neuilly-sur-Seine, France. The Complainant has designed, developed, built and sold residential apartments, individual houses, managed residences, shops, business premises and office buildings.

Complainant is one of the first French Developer-Builders by the combination of its size, its profitability and the power of its brand.

The Complainant owns several trademarks comprising the wordings “KAUFMAN BROAD” and also the owner of many domain names

comprising the distinctive wordings KAUFMAN and BROAD, such as <kaufmanbroad.com> and <kaufmanbroad.fr>.

The disputed domain name <kaufmanbroadilip.com> has been registered on January 23, 2023.

PARTIES CONTENTIONS

The Complainant states that the disputed domain name is confusingly similar to its trademark KAUFMAN BROAD.

The addition of the acronym “ILIP” does in the view of the Complainant not change the overall impression of the designation as being connected to the Complainant’s trademark KAUFMAN BROAD. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and domain names associated.

Moreover, the Complainant contends that the addition of the suffix “.COM” does not change the overall impression of the designation as being connected to the trademark KAUFMAN BROAD. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name, but as “pierre beauvin”. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and he is not related in any way to the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The Complainant states that he has granted neither license nor authorization to the Respondent to make any use of the Complainant’s trademark KAUFMAN BROAD, or apply for registration of the disputed domain name.

Finally, the Complainant asserts that Respondent has used the disputed domain name to pass itself off as one of the Complainant’s employees, offering fake investments contracts allegedly on behalf of the Complainant, in order to receive undue payments.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

Besides, a Google search on the expression KAUFMAN BROAD displays several results, all of them being related to the Complainant and its related entity KAUFMAN & BROAD S.A..

Thus, given the distinctiveness of the Complainant’s trademark, the Complainant can state that the Respondent has registered the disputed domain name with full knowledge of the Complainant’s trademark KAUFMAN BROAD, and therefore could not ignore the Complainant.

Finally, the Respondent has used the disputed domain name in a phishing scheme. Complainant states that the Respondent attempted to pass of as one of the Complainant’s employees. Therefore, the Complainant states that the Respondent used the disputed domain name in bad faith, as it is well-established that using a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith use.

Consequently, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark “KAUFMAN BROAD” as it includes the trademark in its entirety, with the mere addition of the acronym “ILIP” and the Top-Level domain “.COM”.

The addition of the acronym “ILIP” does not change the overall impression of the designation as being connected to the Complainant’s trademark KAUFMAN BROAD.

It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and domain names associated.

The addition of the gTLD suffix “.COM” is also not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant’s trademark and does not change the overall impression of the designation as being connected to its trademark.

Therefore, the Panel finds that the disputed domain name is confusingly similar to Complainant’s trademark KAUFMAN BROAD.

Furthermore, based on the evidence on records and considering that the Respondent has not submitted a compliant Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name.

The Panel finds furthermore that it is not conceivable that the Respondent would not have had actual notice of the Complainant’s trademark rights at the time of the registration of the disputed domain name. A simple search with a search engine would have been enough to find out about the trademark of the Complainant.

Furthermore, the Respondent has used the disputed domain name in a phishing scheme. The Respondent has attempted to pass of as one of the Complainant’s employees. The Respondent used the disputed domain name in bad faith, as it is well-established that using a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith use.

Therefore, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. kaufmanbroadilip.com: Transferred

PANELLISTS

Name	Jan Schnedler
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DATE OF PANEL DECISION 2023-03-11

Publish the Decision