

Decision for dispute CAC-UDRP-105542

Case number CAC-UDRP-105542

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Domain names g7-taxi.net

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization G7

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization taxi france

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, which the Panel accepts, showing that it is the registered owner of the "G7" trademarks on various goods and services related to, inter alia, taxi services, vehicle rental and logistics in various countries. The Complainant's certain "G7" trademarks are, inter alia, the following:

- French trademark "G7" n° 4259547, registered on March 24, 2016;
- European Union trademark "G7" n° 016399263 registered on July 7, 2017;
- European Union trademark "TAXIS G7" n° 8445091 registered on January 12, 2010.

Moreover, the Complainant is also the owner of the domain name <taxis-g7.com> registered on January 17, 1997.

FACTUAL BACKGROUND

The Complainant is a company founded in 1905, and operates in Europe as a leading taxi operator, and holds the leading taxi

booking platform in France and Europe with 9,500 affiliated taxis in more than 20 countries. It also provides vehicle rental and logistics services with 230 employees carrying out over 14 million journeys every year.

The Complainant holds several trademark registrations for "G7" dating back to 2010 in various countries and domain names incorporating "G7" trademark such as <taxis-g7.com>.

On February 11, 2023; the Respondent registered the disputed domain name <g7-taxi.net>. The disputed domain name is currently not accessible.

PARTIES CONTENTIONS

COMPLAINANT:

THE DISPUTED DOMAIN NAME IS CONFUSINGLY SIMILAR

The Complainant contends that the disputed domain name <g7-taxi.net> is confusingly similar to its trademarks and domain names. The Complainant claims that its trademark "G7" is wholly incorporated in the disputed domain name and the addition of the term "TAXI" or the gTLD does not prevent the likelihood of confusion between the disputed domain name and the Complainant's trademarks.

NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF 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 with the Complainant. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name.

The Complainant submits that the Respondent is not known by the disputed domain name, because the Respondent is not identified in the Whois under the names "G7" and "TAXIS G7" but as "TAXI FRANCE". Besides, the Complainant alleges that the email address on the webpage "General conditions" of the disputed domain name is not controlled by the Complainant or its entity in any way and the postal address is unknown by the Complainant and refers to a Complainant's competitor.

Moreover, the Complainant contends that the disputed domain name <g7-taxi.net> directs to a website purporting to be a Complainant's competitor, but using the same graphic charter as the Complainant's website <g7.fr>. The Complainant argues that Respondent does not use the disputed domain name for any bona fide offering of goods or services, and that it does not make a legitimate non-commercial or fair use thereof. It is claimed that the Respondent's use of the disputed domain name is merely to impersonate the Complainant in order to defraud or confuse users, and this indicates a lack of rights or legitimate interests by a Respondent. Additionally, it is asserted that the use of a disputed domain name's resolving webpage in order to offer competing goods or services may not qualify as a bona fide offering of goods or services nor as a legitimate non-commercial or fair use.

THE DISPUTED DOMAIN NAME WAS REGISTERED AND IS USED IN BAD FAITH

The Complainant claims that its trademarks pre-dates the registration of the disputed domain name and they enjoy a wide reputation. Furthermore, it is claimed that the Respondent registered the disputed domain name with actual knowledge of the Complainant's trademarks.

Given the Respondent's website purports to be Complainant's competitor but using the same graphic as the Complainant's website <g7.fr>, the Complainant further argues that Respondent registered and used the disputed domain name to attract Internet users and offer possibly fraudulent services while impersonating the Complainant or, at least, disrupt the Complainant's business by offering services in direct competition with the Complainant. Considering the use of a domain name to impersonate a complainant supports a finding of bad faith registration and use, the Complainant claims that the third requirement here is also met.

RESPONDENT:

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

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In this context, the Panel also notes that the burden of proof is on the Complainant to make out its case and past UDRP panels have consistently said that a Complainant must show that all three elements of the Policy have been made out before any order can be made to transfer a domain name.

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

1. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
2. the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
3. the disputed domain name has been registered and is being used in bad faith.

The Panel will therefore deal with each of these requirements in turn.

IDENTICAL OR CONFUSINGLY SIMILAR

The Policy simply requires the Complainant to demonstrate that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The Panel is satisfied that the Complainant is the owner of registration of "G7" and "TAXIS G7" trademarks.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's "G7" and "TAXIS G7" trademarks.

Moreover, the addition of the gTLD ".NET" is not enough to abolish the similarity, as it is merely a technical requirement.

The Panel recognizes the Complainant's rights and concludes that the disputed domain name is confusingly similar with the Complainant's trademark. Therefore, the Panel concludes that the requirements of paragraph 4(a)(i) of the Policy is provided.

NO RIGHTS OR LEGITIMATE INTERESTS

Under paragraph 4(a)(ii) of the Policy, the complainant has the burden of establishing that the respondent has no rights or legitimate interests in respect of the domain name.

It is open to a respondent to establish its rights or legitimate interests in a domain name, among other circumstances, by showing any of the following elements:

(i) before any notice to the respondent of the dispute, the use or making demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) the respondent of the dispute (as an individual, business, or other organization) has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or

(iii) the respondent of the dispute is making a legitimate non-commercial or fair use of the domain name, without an intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Thus, if the respondent proves any of these elements or indeed anything else that shows that it has a right or legitimate interest in the disputed domain name, the complainant will have failed to discharge its burden of proof and the complaint will fail. The burden is on the complainant to demonstrate a prima facie case that the respondent does not have rights or legitimate interests in the disputed domain name. Once the complainant has made out a prima facie case, then the respondent may, inter alia, by showing one of the above circumstances, demonstrate rights or legitimate interests in the disputed domain name.

The Complainant contends that the disputed domain name has no relation with the Respondent and the Respondent is not commonly known as the disputed domain name.

In the absence of a compliant response, the Panel accepts the Complainant's allegations as true that the Respondent has no authorization to use the Complainant's trademarks in the disputed domain name.

Hence, as the Complainant has made out its prima facie case, and as the Respondent has not demonstrated any rights or legitimate interests as illustrated under paragraph 4(c) of the Policy, nor has the Panel found any other basis for finding any rights or legitimate interests of the Respondent in the disputed domain name, the Panel concludes that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel concludes that the Complainant's "G7" trademark is of distinctive character and is well-known in its sector. Therefore, the Panel is of the opinion that due to the earlier rights of the Complainant in well-known "G7" and "TAXIS G7" trademarks, the Respondent, was aware of the Complainant and its trademarks at the time of registration of the disputed domain name (see e.g., *Ebay Inc. v. Wangming*, WIPO Case No. D2006-1107). Referring to *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. D2000-0226, the Panel believes that the awareness of the Complainant's trademark at the time of the registration of the disputed domain name is to be considered an inference of bad faith registration.

Besides, "TAXI" refers to the Complainant's main area of activity and leads the consumers to associate the disputed domain name with the Complainant. Therefore, the mere addition of the non-distinctive word element "TAXI" to the well-known and distinctive "G7" trademark of the Complainant is not sufficient to vanish the similarity, if not increase it, because of its said reference to the Complainant's main area of activity and the disputed domain name is almost identical with the Complainant's trademark "TAXIS G7". The Panel is of the opinion that the Internet users will easily fall into false impression that the disputed domain name is an official domain name of the Complainant.

Moreover, the link <g7-taxi.net> is currently inactive but in the Complaint, it was explained that it provides taxi booking services under the name of "G7" and a screenshot of the website is provided in the Annex 5, which indeed shows taxi booking service with a website design similar to the Complainant's. It can deceive the consumers into thinking the Respondent is affiliated with the Complainant and into ordering services through the website of the disputed domain name. The Panel considers that this may be evaluated under (iv) of paragraph 4(b), which is as follows: by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website 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 the respondent's website or location or of a product or service on the respondent's website or location. In any case, as previously held by various panellists many times before, the current inactive status of the disputed domain name also does not prevent the finding of bad faith.

Therefore, in light of the above-mentioned circumstances in the present case, the Panel finds that the disputed domain name has been registered and is being used in bad faith and that the Complainant has established the third element under 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. **g7-taxi.net**: Transferred

PANELLISTS

Name

Mrs Selma Ünlü

DATE OF PANEL DECISION

2023-07-24

Publish the Decision
