

Decision for dispute CAC-UDRP-105600

Case number CAC-UDRP-105600

Time of filing 2023-07-10 16:07:03

Domain names taxi-g7.taxi

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization G7

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Amin Guefa

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 G7 is the owner of various trademark registrations such as:

- French trademark G7 (FIG) n°4259547, filed on 24/03/2016 and granted on 15/07/2016 for products in class 12;
- European Union trademark G7 (fig) n°016399263, filed on 23/02/2017 and granted on 07/07/2017 for services in classes 37, 38 and 39;
- European Union trademark TAXIS G7 n°8445091, filed on 06/07/2009 and granted on 12/01/2010 for products/services in classes 9, 12, 35, 37, 38 and 39.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

Founded in 1905, G7 Group is Europe's leading cab operator, and holds the leading cab booking platform in France and Europe, with

9,900 affiliated cabs. It also provides vehicle rental and logistics services. G7 GROUP relies on a team of 230 employees who make it possible to carry out over 20 million journeys every year.

The Applicant owns a large portfolio of trademarks including the wording "G7" such as:

The French trademark G7® n°4259547, registered on 24/03/2016 ;

The European Union trademark G7, n°016399263 registered on 07/07/2017;

The European Union trademark TAXIS G7® n°8445091 registered on 12/01/2010.

Furthermore, the Complainant owns multiple domain names consisting in the wording "G7", such as <taxis-g7.com> registered since January 17th, 1997.

The disputed domain name <taxi-g7.taxi> was registered on March 18th, 2023 and redirects to a website purporting to be a Complainant's competitor.

1. The domain name is identical or confusingly similar to its trademarks

The Complainant states that the disputed domain name <taxi-g7.taxi> is confusingly similar to its trademarks and its domain names associated.

The deletion of the letter "S" is not sufficient to avoid the likelihood of confusion. It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP" (WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin).

Past panels commonly stated that the gTLD is not relevant in the appreciation of confusing similarity (WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A). ("It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.").

1. The Respondent has no rights or legitimate interests in respect of the domain name(s);

According to the WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd., a Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Complainant contends that the Respondent is not known as the disputed domain name. 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. Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy ¶ 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii).").

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name <taxi-g7.taxi> and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

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 by the Complainant.

The disputed domain name <taxi-g7.taxi> points to a website purporting to be a Complainant's competitor. 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. Impersonation of a complainant, by using its trademark in a disputed domain name and seeking to defraud or confuse users, indicates a lack of rights or legitimate interests by a Respondent. See *President and Fellows of Harvard College v. Michael S. George / Harvard Business Council*, FA 2003542 (Forum Aug. 25, 2022) ("The impersonation of a complainant in conjunction with a phishing scheme may indicate a lack of rights or legitimate interest in a disputed domain name"). Additionally, 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 under Policy ¶¶ 4(c)(i) & (iii). See *Vanguard Trademark Holdings USA LLC v. Dan Stanley Saturne*, FA 1785085 (Forum June 8, 2018) ("Respondent's use of the disputed domain name does not amount to a bona fide offering of goods or services or a legitimate noncommercial or fair use" where "Respondent is apparently using the disputed domain name to offer for sale competing services.").

Thus, the Complainant contends that the Respondent has no rights or legitimate interest on the disputed domain name.

1. The domain name is registered and is/are being used in bad faith.

The Complainant asserts that the disputed domain name <taxi-g7.taxi> is confusingly similar to the well-known trademarks G7® and TAXIS G7® registered since 2010 and 2016. Indeed, this trademark is reproduced in its entirety by the disputed domain name.

The disputed domain name points to a website purporting to be a Complainant's competitor.

All the results of an internet search for the terms "TAXI G7" are related to the Complainant and its products and services.

The Complainant asserts that Respondent registered the disputed domain name with actual knowledge of Complainant's trademarks. Under Policy ¶ 4(a)(iii), actual knowledge can form a foundation for demonstrating bad faith registration and may be established by examining a respondent's use of a disputed domain name. See *iFinex Inc. v. xu shuaiwei*, FA 1760249 (Forum Jan. 1, 2018) ("Respondent's prior knowledge is evident from the notoriety of Complainant's BITFINEX trademark as well as from Respondent's use of its trademark laden domain name to direct internet traffic to a website which is a direct competitor of Complainant").

The disputed domain name <taxi-g7.taxi> points to a website purporting to be a Complainant's competitor. The Complainant further argues that Respondent registered and used the disputed domain name to attract Internet users and offer possibly fraudulent services while impersonating Complainant or, at a minimum, disrupt Complainant's business by offering services in direct competition with Complainant. Panels have found bad faith pursuant to Policy ¶¶ 4(b)(iii) and (iv) when a respondent uses a confusingly similar domain name to attract Internet users and monetarily capitalize on that confusion. See *Expedia, Inc. v. Euwen Spence Jr*, FA 2006812 (Forum Aug. 26, 2022) ("Complainant provides screenshots of Respondent's resolving webpage showing advertisements for the same services that Complainant offers."); *G.D. Searle & Co. v. Celebrex Drugstore*, FA 123933 (Forum Nov. 21, 2002) ("finding that the respondent registered and used the domain name in bad faith pursuant to Policy ¶ 4(b)(iv) because the respondent was using the confusingly similar domain name to attract Internet users to its commercial website"). In this same vein, use of a disputed domain name to impersonate a complainant supports a finding of bad faith registration and use. See *Russell & Bromley Limited v. Li Wei Wei*, FA 1752021 (Forum Nov. 17, 2017) ("finding the respondent registered and used the at-issue domain name in bad faith because it used the name to pass itself off as the complainant and offer for sale competitive, counterfeit goods").

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

PARTIES CONTENTIONS

Complainant's contentions are summarized above.

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

1. RIGHTS

The disputed domain name is confusingly similar to the Complainant's G7 and TAXIS G7 registered trademarks. G7 is fully included and TAXIS G7 is almost identical to TAXI G7.

As stated in *Crédit Industriel et Commercial v. Manager Builder, Builder Manager*, WIPO Case No. D2018-2230:

"The disputed domain name incorporates the CIC trademark in its entirety. Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark (see e.g., *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.)* and *EMS Computer Industry (a/k/a EMS)*, WIPO Case No. D2003-0696). Moreover, it has been held in many UDRP decisions and has become a consensus view among panelists (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.8), that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element of the UDRP.

Accordingly, the addition of the term "banks", which even is the English translation of the French term "banques" as it is reflected in Complainant's CIC BANQUES trademark, does not avoid the confusing similarity arising from the incorporation of Complainant's CIC trademark in the disputed domain name."

Furthermore, the <.taxi> TLD contributes to the likelihood of confusion with the Complainant's trademarks and business.

2. NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent has not submitted any response. Therefore, they have submitted no information on possible rights or legitimate interests they might hold. On its part, the Complainant has submitted information and arguments which, prima facie, allow it to be reasonably assumed that the Respondents have no rights or legitimate interest in the domain names in dispute.

As the WIPO Arbitration and Mediation Center pointed out in UDRP case No. D2002-0856:

“As mentioned, [in the decision], the Respondent has not filed a Response and is therefore in default. In those circumstances when the Respondent has no obvious connection with the disputed domain name, the prima facie showing by the Complainant that the Respondent has no right or legitimate interest is sufficient to shift the burden of proof to the Respondent to demonstrate that such a right or legitimate interest exists.” WIPO Case No. D20020273 <sachsenhalt>; WIPO Case No. D20020521 <volvovehicles.com>.

Furthermore, the domain name in dispute redirects to a website purporting to be a Complainant's competitor. Obviously, this use cannot be considered as legitimate, as such links capitalize on the reputation and goodwill of the complainant's marks or otherwise mislead Internet users.

Accordingly, the Panel finds that the Respondents have no rights or legitimate interests in the disputed domain name.

3. BAD FAITH

The Respondents have, as a result of their default, not invoked any circumstances which could invalidate the Complainant's allegations and evidence with regard to the Respondents' registration and use of the disputed domain name in bad faith.

The Complainant has filed evidence of the well-known character of its G7 and TAXIS G7 trademarks in relation to taxi services. The disputed domain name resolves to a website apparently of a Complainant's competitor. It seems clear that the Respondent is trying to take advantage of the Complainant's position in the sector.

It is therefore logical to think that the Respondent registered the domain name for this fraudulent purpose.

Paragraph 4(b) (iii) of the Policy provides that the following circumstances are deemed to be evidence that the Respondent has registered and is using the disputed domain name in bad faith:

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation or endorsement of its website or location or of a product or service on its website or location.

As mentioned in Andrey Ternovskiy dba Chatroulette v. Alexander Ochki, WIPO Case No. D2017-0334:

"It is clear in the Panel's view that in the mind of an Internet user, the disputed domain names could be directly associated with the Complainant's trademark, which is likely to be confusing to the public as suggesting either an operation of the Complainant or one associated with or endorsed by it (see AT&T Corp. v. Amjad Kausar, WIPO Case No. D2003-0327)."

It has, therefore, been satisfactorily demonstrated to the Panel that the disputed domain name has been registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **taxi-g7.taxi**: Transferred

PANELLISTS

Name	José Ignacio San Martín
------	--------------------------------

DATE OF PANEL DECISION **2023-08-11**

Publish the Decision
