

Decision for dispute CAC-UDRP-105678

Case number	CAC-UDRP-105678
Time of filing	2023-08-02 14:34:34
Domain names	ClearStream.cc, Clearstreambankingpayment.com

Case administrator

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

Organization	Clearstream Services, société anonyme
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Complainant representative

Organization	Grünecker Patent und Rechtsanwälte PartG mbB
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Respondents

Name	Flavia Ferraro
Organization	cdbpayment

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 names.

IDENTIFICATION OF RIGHTS

Various trademarks, including "CLEARSTREAM" (EUIPO, n° 001403476, 29-11-1999 for classes 9, 36, 42).

FACTUAL BACKGROUND

Clearstream is a financial services company that provides post-trade services to financial institutions, including banks, broker-dealers, and investment firms. It is a subsidiary of Deutsche Börse Group, one of the world's largest stock exchange operators. Clearstream specializes in clearing, settlement, custody, and asset servicing services for a wide range of financial instruments, including stocks, bonds, securities, and derivatives. Its primary goal is to facilitate the efficient and secure transfer of securities and cash between parties in financial transactions.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names 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 names are 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 Respondents to have no rights or legitimate interests in respect of the disputed domain names (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 names have been registered and are 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

CONCERNING THE CONSOLIDATION

The Complainant has requested consolidation regarding the two disputed domain names.

The Complainant explains that he encountered a first third-party registration, <clearstream.in>, which drew the attention of financial authorities due to the use of official identification elements related to the Complainant on this site. This prompted the Complainant to initiate a procedure under the applicable .in domain name procedure. Decision 1708 was issued on June 20, 2023.

The first disputed domain name was registered a month later, and the site available at this address contained the same official identification number and exhibited similarities in terms of look and feel to the site that was the subject of the Indian complaint.

Subsequently, the second disputed domain name was registered five days later.

These elements (on which the respondents do not provide an explanation) appear sufficient to the Panel to believe that these registrations are part of a series of registrations behind which a person or organization is acting alone or in concert, justifying consolidation.

FIRST CONDITION

It is well-accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

Regarding the first domain name (<ClearStream.cc>), the Complainant's trademark is wholly encompassed within it.

Regarding the second domain name (<Clearstreambankingpayment.com>), it also entirely incorporates the Complainant's trademark, along with the addition of generic terms directly related to the Complainant's business activities. This is even more concerning as it significantly elevates the risk of confusion.

SECOND CONDITION

The Respondents do not provide any explanation for choosing and exploiting the disputed domain names. The Panel shall take into consideration the Complainant's allegations, supported by the evidence provided.

Outcomes are:

1. The Complainant affirms that, to the best of their knowledge, the Respondents have never been associated with their activities at any point in time. Mere registration of a domain name is insufficient to establish rights or legitimate interests.
2. The Respondents have no sponsorship or affiliation with the Complainant in any manner, and the Complainant has not granted any license, authorization, or permission to the Respondents to use its trademark in any way, including as part of domain names. This is particularly relevant for use in the financial sector, which is the sole and clearly intended use for the second disputed domain name (<Clearstreambankingpayment.com>).
3. The Respondents are not commonly known by the disputed domain names.
4. In the absence of any explanation from the Respondents, it appears that the likely reason for registering the domain name was to exploit the complainant's goodwill and valuable reputation.
5. This is even more likely since it appears that at least for one of the disputed domain names, an official identification number of the Complainant was used on the website to enhance impersonation.
6. Furthermore, it appears that the Respondents are individuals. While this is not necessarily a clear indication of a lack of legitimate interest, when considered in conjunction with all other factors, it appears unusual and warrants further explanation.
7. For reasons explained here above (see "consolidation"), the registration of the disputed domain names appears to be a response to a transfer decision. This can be seen as another indication of the absence of legitimate interest and would, at the very least, warrant further explanation.

The Respondents failed to submit a reply to the Complainant within the allotted time. Consequently, the respondent fully and unequivocally failed to establish legitimacy in registering the disputed domain names and declined to provide any clarification on this crucial matter. Accordingly, considering the Complaint with its exhibits and the respondent's failure to respond to the Complaint, the Panel concludes that the second condition is met.

THIRD CONDITION

The Panel observes that on the website available under the first disputed domain name <clearstream.cc>, the Respondents used an official number for companies active in the financial sector, which belongs to the Complainant.

In the view of the Panel, this single element is sufficient to establish that the third condition is met.

Indeed, such action can only be construed with the aim of impersonating the Complainant. This behavior is incompatible with good faith and undermines all the efforts made by public authorities and private enterprises to protect the public during remote interactions with financial companies. It is essential that the public can identify the entity with which they engage in remote financial relations. In this context, official numbers (and the registry that allows verification) play a crucial role.

It is a priori incompatible with the requirement of good faith to appropriate such a number and to fail to provide a convincing explanation for this highly unusual course of action.

The disputed domain name <clearstreambankingpayment.com> is passively held. The Panel did not find any conceivable good faith use of this domain name by the Respondents.

Since the Panel has accepted the consolidation of complaints related to both domain names because they appear to be under common control, the conclusion regarding the first domain name applies equally to the second, and the third condition is satisfied for both of them.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ClearStream.cc**: Transferred
2. **Clearstreambankingpayment.com**: Transferred

PANELLISTS

Name	Mr. Etienne Wéry
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DATE OF PANEL DECISION 2023-09-14

Publish the Decision
