

Decision for dispute CAC-UDRP-105862

Case number CAC-UDRP-105862

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Domain names **sabenatchnics.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **SABENA TECHNICS**

Complainant representative

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

Respondent

Name **david milo**

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 is the owner of the international trademark SABENA TECHNICS n° 907432 registered since August 21st, 2006. The Complainant also owns and communicates on Internet through the domain name <sabenatechnics.com>, registered since May 3rd, 2000.

FACTUAL BACKGROUND

The Complainant is a French leading independent provider of maintenance (MRO) and modification services for the civil and military aircraft business. With more than 3100 employees and 500 customers worldwide, the Complainant provides turnkey solutions for the aviation industry. The Complainant is the owner of the international trademark SABENA TECHNICS n° 907432 registered since August 21st, 2006. The Complainant also owns and communicates on Internet through the domain name <sabenatechnics.com>, registered since May 3rd, 2000. The disputed domain name <sabenatchnics.com> was registered on September 12th, 2023 and is currently inactive. The Complainant contends that the disputed domain name is confusingly similar to the trademark SABENA TECHNICS. The Complainant contends that the trademark SABENA TECHNICS is misspelled in the disputed domain name. The Complainant claims that the deletion of the letter "E" is not sufficient to avoid the likelihood of confusion with the Complainant's trademark. This is in the view of the Complainant a clear case of typosquatting, the disputed domain name contains the obvious misspelling of the Complainant's trademark. Past panels have confirmed that the slight spelling variation of the trademark SABENA

TECHNICS does not prevent a disputed domain name from being confusingly similar to the Complainant's trademark. Furthermore, the Complainant contends the addition of the gTLD ".COM" does not change the overall impression of the designation as being connected to the trademarks of the Complainant. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademarks and its domain names associated. **Therefore, the Complainant contends that the disputed domain name is confusingly similar to Complainant's trademark SABENA TECHNICS.** The Complainant asserts that the Respondent is not known as the disputed domain name. The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent. Moreover, neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark SABENA TECHNICS, or apply for registration of the disputed domain name by the Complainant. The Complainant also claims that the disputed domain name is a typosquatted version of the trademark SABENA TECHNICS. The Complainant contends that Respondent did not make any use of the disputed domain name, and it confirms that the Respondent has no demonstrable plan to use the disputed domain name. It proves a lack of legitimate interests regarding the disputed domain name except in order to create a likelihood of confusion with the Complainant and its trademark. **Accordingly, the Respondent has in the view of Complainant no rights or legitimate interests to the disputed domain name.** The Complainant states that the disputed domain name is confusingly similar to its distinctive trademark and the domain name associated, registered numerous years before the registration of the disputed domain name. The Complainant is a French leading independent provider of maintenance (MRO) and modification solutions for civil & military aircraft operators operating worldwide. Complainant states that the terms "SABENA TCHNICS" have no meaning, except in relation with the Complainant. Thus, given the distinctiveness of the Complainant's international trademark, the Complainant claims that the Respondent has registered the domain name in knowledge of the Complainant, which evidences bad faith. Moreover, the Complainant states that the misspelling in the domain name was intentionally designed to be confusingly similar with the Complainant's trademark. Furthermore, the disputed domain name is currently inactive. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, an infringement of the Complainant's rights under trademark law, or an attempt to attract, for commercial gain, Internet users to his own website, by creating a likelihood of confusion with Complainant's trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website. **Thus, the Complainant contends that the disputed domain name was registered and is being used in bad faith.**

PARTIES CONTENTIONS

The Complainant's contentions are summarised 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

I. Identical or Confusingly SimilarThe Panel acknowledges that the Complainant has established rights in the trademark SABENA TECHNICS. The trademark SABENA TECHNICS is misspelled in the disputed domain name. Disregarding the gTLD “.com”, the disputed domain name incorporates the trademark SABENA TECHNICS in its entirety, with the deletion of the letter “E”. This is not sufficient to avoid the likelihood of confusion with the Complainant’s trademark, the trademark of the Complainant is still very well recognizable. Past panels have confirmed that the slight spelling variation of the trademark SABENA TECHNICS does not prevent a disputed domain name from being confusingly similar to the Complainant’s trademark. The Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the SABENA TECHNICS trademark and in demonstrating that the disputed domain name is confusingly similar to its trademark.

II. Rights or Legitimate InterestsPursuant to paragraph 4(c) of the Policy, the complainant must make out a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a prima facie case is made, the respondent carries the burden of producing evidence in support of its rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See WIPO Overview 3.0, section 2.1. The Complainant asserts that it has not authorized the Respondent to use its trademark, and there is no evidence to suggest that the Respondent has used or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Thus, the Complainant has established its prima facie case with satisfactory evidence. The Respondent did not file a formal response and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain names. As such, the Panel concludes that the Respondent has failed to rebut the Complainant’s prima facie showing of the Respondent’s lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

III. Registered and Used in Bad FaithParagraph 4(b) of the Policy states that any of the following circumstances in particular but without limitation shall be considered evidence of the registration and use of a domain name in bad faith:(i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or(ii) circumstances indicating that the respondent registered the domain name to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or(iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or(iv) circumstances indicating that the respondent is using the domain name to intentionally attempt 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 the respondent’s website or location or of a product or service on its website or location. The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003. The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trademark of another party. See *Match.com, LP v. Bill Zag and NWLAW.S.ORG*, WIPO Case No. D2004-0230. The Panel believes that the Respondent’s conduct in this case constitutes bad faith registration and use of the disputed domain name within the meaning of paragraph 4(b)(i) of the Policy. When the Respondent registered the disputed domain name in 2023, the SABENA TECHNICS trademarks were already widely known and directly associated with the Complainant’s activities. The Complainant’s registered trademark rights in SABENA TECHNICS for its products predate the registration date of the disputed domain name by decades. A simple online search for the term “SABENA TECHNICS” or “SABENA TCHNICS” would have revealed that it is a renowned brand. The Panel is, therefore, of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant’s trademark rights. Given the foregoing, it would be unreasonable to conclude that the Respondent, at the time of the registration of the disputed domain name, was unaware of the Complainant’s trademark, or that the Respondent’s adoption of the uncommon and distinctive trademark SABENA TECHNICS was a mere coincidence. The Panel furthermore finds that it is a clear case of typosquatting. The disputed domain name contains the obvious misspelling of the Complainant’s trademark. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users’ typographical errors. Moreover, the Panel finds that the misspelling in the domain name was intentionally designed to be confusingly similar with the Complainant’s trademark. The disputed domain name is currently inactive. The Panel agrees with the Complainant that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, an infringement of the Complainant’s rights under trademark law, or an attempt to attract, for commercial gain, Internet users to his own website, by creating a likelihood of confusion with Complainant’s trademark as to the source, sponsorship, affiliation or endorsement of Respondent’s website. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith pursuant to 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. sabenatchnics.com: Transferred

PANELLISTS

Name **Jan Schnedler**

DATE OF PANEL DECISION **2023-11-02**

Publish the Decision
