Decision for dispute CAC-UDRP-105949

Case number	**CAC-UDRP-105949**
Time of filing	**2023-11-08 09:47:03**
Domain names	**aternos.net**

Case administrator

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

Complainant

Organization	**Aternos GmbH**

Respondent

Organization	**ManaLabs Inc**

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 mark ATERNOS registered, inter alia, as an EUTM no 018349877 for advertising services since March 2021.

FACTUAL BACKGROUND

The disputed domain name registered in 2017 has been pointed to a commercial site unrelated to the Complainant <tcpshield.com>.

PARTIES CONTENTIONS

COMPLAINANT:

Trademark Ownership

The Complainant is the rightful owner of the trademark "Aternos," as demonstrated by our valid and registered trademarks in the EU, UK, and US (first in time 2021 in the EU).

Confusing Similarity

The disputed domain name <aternos.net> is identical to the Complainant's registered trademark "Aternos," and this similarity is likely to cause confusion among consumers who may believe they are visiting an official website of the Complainant.

Bad Faith Registration

It is evident that the registrant of the disputed domain name that the Respondent has acted in bad faith by intentionally registering and using the domain name to divert consumers to a competing website, www.manacube.com. Their actions demonstrate a clear intention to profit at the expense of the Complainant's brand and reputation.

Previous Relationship

The Complainant has an established prior commercial relationship with the domain registrant demonstrating the Respondent's knowledge of the Complainant's trade mark and evidencing the claim of bad faith.

Intent to Mislead

The Respondent's actions, including the intentional redirection of consumers from <aternos.net> to <manacube.com>, unequivocally demonstrates an intent to mislead and confuse consumers. Such actions have a detrimental impact on the Complainant's brand and its integrity.

Consumer Confusion and Harm

The deliberate confusion caused by the registrant's actions is detrimental to the Complainant's business, resulting in potential financial losses and harm to its reputation.

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). However, unfortunately for the Complainant these rights postdate the registration of the disputed domain name by several years.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has NOT, 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 NOT, 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 Respondent accessed the online platform on 13 November 2023, but never filed any statement.

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 was registered in 2017 several years before the trade mark rights evidenced by the Complainant which date from 2021.

Additionally, the evidence the Complainant puts forward to suggest knowledge by the registrant of the Complainant from 2022 also post dates registration of the disputed domain name by several years.

Further there is no evidence that the disputed domain name pointed to <manacube.com>. It presently points to a site <tcpshield.com>.

The Complainant omitted relevant facts such as the date of registration of and the current use of the disputed domain name. Given that the Complainant must be presumed to have put forward all the evidence in the Complaint that benefitted its case and has not substantiated its assertions that the disputed domain name has been pointed to a competitor of the Complainant and has failed to show rights in ATERNOS prior to registration of the disputed domain name the Panel makes a finding of reverse domain name hijacking.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **aternos.net**: Remaining with the Respondent

PANELLISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2023-12-11

Publish the Decision