Decision for dispute CAC-UDRP-106094

Case number	CAC-UDRP-106094
Time of filing	2023-12-21 09:16:38
Domain names	gaumontauk.com, gaumontcuk.com, uksgaumont.com

Case administrator

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

Complainant

Organization	GAUMONT

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	York New

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

The Complainant is the owner of several international trademark registrations for the wording “SAINT-GOBAIN”, including:

- European trademark "Gaumont" n° 6890511 registered since May 6th, 2008;
- International trademark "Gaumont" n° 1085061 registered since June 1st, 2011;
- USPTO trademark "Gaumont" n° 4266146 registered since June 1st, 2011;

The Complainant also owns the domain name <gaumont.com>, registered on November 12th, 1996.

FACTUAL BACKGROUND

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

The Complainant states that it is a French film studio company which is using GAUMONT as business name and distinctive sign at least since the early '90s of the past century.

The Complainant further states that it is the owner of the trademark “GAUMONT” since 2008 and of the domain name

<gaumont.com> since 1996.

The disputed domain names were registered between October 1st and November 11th, 2023; two of them are currently inactive (<gaumontauk.com> and <uksgaumont.com>), while the 3rd one (<gaumontcuk.com>) redirects to a website featuring the Complainant's GAUMONT trademark without authorization.

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 Respondent 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

THE DISPUTED DOMAIN NAMES ARE IDENTICAL OR CONFUSINGLY SIMILAR TO THE COMPLAINANT`S TRADEMARK

The disputed domain names are confusingly similar to the GAUMONT trademark, as they all incorporates it in their entirety, with the mere addition of terms such as "AUK", "CUK" and "UKS", which are not sufficient to avoid the likelihood of confusion.
As a matter of fact, such variations do not change the overall impression of the designation as being connected to the Complainant's trademark ("a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP", see WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin).

* * *

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAMES

According to the information provided by the Complainant, the Respondent is not affiliated nor authorized by the Complainant in any way. Likewise, the Complainant neither licensed nor authorized the Respondent to make any use of its trademark GAUMONT, or to apply for registration of the disputed domain names on behalf of the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

It is undeniable that Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain names. Once such prima facie case is made, Respondent carries the burden of demonstrating rights or legitimate interests in the domain names. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

Given all the above and taken into account the fact that the Respondent did not provide any response within the present proceeding, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in the disputed domain names.

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THE DISPUTED DOMAIN NAMES HAVE BEEN REGISTERED AND ARE BEING USED IN BAD FAITH

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain names in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain names.

As for <gaumontcuk.com>, such domain name resolves to a webpage featuring the GAUMONT trademark owned by the Complainant and relevant WIPO, ADR.EU and FORUM case law confirmed that no bona fide offering of goods or services, nor any legitimate noncommercial or fair use can be found where the respondent uses a domain name to pass its self-off as affiliated with the complainant (see, among others, Dream Horse Classifieds v. Mosley, FA 381256). The website connected to <gaumontcuk.com> is also suspected of phishing purposes, a conduct that leads to a clear demonstration of bad faith per se.

For what concern <gaumontauk.com> and <uksgaumont.com>, such disputed domain names are inactive. However, since the Respondent has not demonstrated any activity in respect of the disputed domain names, 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, or an infringement of the Complainant's rights under trademark law. In this case and bearing in mind the use of <gaumontcuk.com>, passive holding is a demonstration of bad faith.

Consequently, the Panel believes that all the three disputed domain names were registered and are being 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. **gaumontauk.com**: Transferred
2. **gaumontcuk.com**: Transferred
3. **uksgaumont.com**: Transferred

PANELLISTS

Name	**Tommaso La Scala**

DATE OF PANEL DECISION 2024-01-27

Publish the Decision