Decision for dispute CAC-UDRP-106115

Case number	CAC-UDRP-106115
Time of filing	2023-12-28 09:20:42
Domain names	skokka.bio, skokka.boats, skokka.bond, skokka.boutique, skokka.builders, skokka.careers, skokka.cfd, skokka.cloud, skokka.codes, skokka.contact, skokka.engineer, skokka.florist, skokka.forum, skokka.futbol, skokka.golf, skokka.hockey, skokka.homes, skokka.icu, skokka.immo, skokka.industries, skokka.institute, skokka.kaufen, skokka.markets, skokka.mba, skokka.motorcycles, skokka.nagoya, skokka.observer, skokka.sbs, skokka.software, skokka.wang, skokka.bar

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Strasshill Holding Limited

Complainant representative

Organization	Notarbartolo & Gervasi S.p.A.

Respondent

Name	Mihaela Sinclair

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 trademarks.

In particular, Strasshill Holding Limited owns:

- European Union trademark no. 012610374 SKOKKA filed on February 18, 2014 and registered on July 16, 2014 in classes 35, 38, 42 and 45.
- European Union trademark no. 012827771 SKOKKA (dev.) filed on April 28, 2014 and registered on September 9, 2014 in classes 35, 38, 42 and 45.
- UK trademark no. UK00003760552 SKOKKA (dev.) filed on March 1, 2022 and registered on June 3, 2022 in classes 35, 38 and 42.
- International trademark no. 1699647 SKOKKA (dev.) registered on May 23, 2022 in classes 38 and 42.

FACTUAL BACKGROUND

The Complainant informs that Strasshill Holding Limited is a tech company, incorporated under the laws of Cyprus, active in designing and developing mobile and desktop platforms. It takes care of the product from the birth of the idea to its materialization: benchmarking, vision, concept, prototyping, ux & ui design and product quality testing. It is also in charge of the hardware, middleware and network administration of the IT infrastructure that runs the websites.

According to the Complainant Strasshill Holding Limited has operated <skokka.com> an adult dating website since 2012. The website publishes adult dating service listings divided by countries and cities all over the world. Due to the Complainant's extensive marketing efforts, <skokka.com> has become “The Adult Dating Reference”, one of the most popular brands in its industry, as demonstrated by the number of visits worldwide amounting to 107.8 million between September – November 2023.

The Complainant is owner of numerous trademark registrations worldwide for the wording SKOKKA and it also owns multiple domain names consisting in the wording SKOKKA, such as <skokka.com> registered since 26 October 2012.

The Complainant notes that all the disputed domain names were registered on November 20, 2023 and requests to consolidate this UDRP dispute in respect of all the disputed domain names and the registrants (Respondents) based on the following circumstances:

a) All the 31 disputed domain names were registered on the same date with the same Registrar;

b) There is common information regarding the registrants of the disputed domain names (North Carolina, US, identity protected by the same privacy / proxy service);

c) All the disputed domain names share the same structure/naming pattern by identically reproducing the Complainant's SKOKKA trademark with the addition of 31 different new generic TLDs;

d) All the disputed domain names redirect to the same domain name and gaming website <lotto60.com>.

In the Complainant's view the disputed domain names are identical or at least confusingly similar to the Complainant SKOKKA trademark since the addition of 31 different new generic TLDs to the mark SKOKKA neither affects the attractive power of the Complainant’s SKOKKA trademark, nor is sufficient to distinguish the disputed domain names from such mark.

In addition, according to the Complainant, the Respondent is not known as the disputed domain names. The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names and that the Respondent is not related in any way with the Complainant. Furthermore, the Complainant informs that Strasshill Holding Limited does not carry out any activity for, nor has any business with the Respondent and that neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark SKOKKA, or apply for registration of the disputed domain names by the Complainant.

The Complainant also notes that all disputed domain names redirect to the same gaming website. In the Complainant's view, such use of the disputed domain names is not a legitimate noncommercial of fair use, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant’s mark under the UDRP Policy.

Furthermore, the Complainant contends that due to the distinctiveness and reputation of the SKOKKA trademark, it is inconceivable that the Respondent could have registered the disputed domain names, which are identical or at least confusingly similar to the Complainant’s SKOKKA trademark, without actual knowledge of the Complainant and/or its rights in the SKOKKA trademark. Moreover, despite having received a notification stating that the domain names matched the Complainant’s SKOKKA trademark registered in the Trademark Clearinghouse, the Respondent proceeded with the registration of the disputed domain names identical or at least confusingly similar to the Complainant’s SKOKKA trademark. Therefore, in the Complainant's view, there is no doubt that the Respondent registered the disputed domain names with actual knowledge of the Complainant and/or its rights in the SKOKKA trademark.

The Complainant also notes that all disputed domain names are being used to redirect the Internet users to the same gaming website (<lotto60.com>) and contends that this is a clear attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant and its mark.

Finally, the Complainant notes that the Respondent's registration data were protected by privacy shield and that the Respondent’s registration data, disclosed by the Registrar upon CAC’s request, appears to be fake.

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

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 name have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Complainant has requested a consolidation of these domain names since the domain names, inter alia, were registered on the same date, were registered by the same registrar, have the same holder and all redirect to the same gaming website.

According to the paragraph 10(e) of the Rules of UDRP Policy “a Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules”. Paragraph 3(c) of the UDRP Rules states that: “The complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder”. All the disputed domain names belong to the same holder and, therefore, the request for consolidation is granted.

Also otherwise, 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

Paragraph 4(a) of the Policy provides that to obtain the transfer of the disputed domain names, the Complainant must prove that each of the following elements is present:

(i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and

(iii) the disputed domain names have been registered and are being used in bad faith.

1) The Panel finds that the disputed domain names are confusingly similar to the Complainant’s trademark SKOKKA. Many panels have found that a disputed domain name is confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark in its entirety (see, among others, Chubb Security Australia PTY Limited v. Mr. Shahim Tahmasebi, WIPO Case No. D2007-0769; Société Air France v. Virtual Dates, Inc., WIPO Case No. D2005-0168 and Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale, WIPO Case No. D2000-0662). This is the case in the present situation where the Complainant’s registered trademark SKOKKA is fully included in all the disputed domain names. The additional elements, namely the 31 different new generic TLDs are mere technical requirements, which do not affect the identity between the signs and should be totally disregarded in the comparison between the Complainant's mark and the disputed domain names. The Complainant therefore succeeds on the first element of the Policy.

2) The Complainant demonstrated that the disputed domain names simply redirect to a gaming website. The Panel finds that said activity, of course, does not provide a legitimate interest in the disputed domain names under the Policy. Furthermore, the Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain names as it is not commonly known under the disputed domain names and was never authorized to use the SKOKKA trademark by the Complainant. The Respondent, in the absence of any response, has not shown any facts or element to justify prior rights or legitimate interests in the disputed domain names. The Complainant therefore succeeds on the second element of the Policy.

3) Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was

registered and used in bad faith, including:

(i) circumstances indicating that [the Respondent] [has] registered or [has] acquired the [Disputed] domain name primarily for the purpose of selling, renting, or otherwise transferring the [Disputed] domain name registration to the complainant who is the owner of the trademark 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 [Disputed] domain name; or

(ii) [the Respondent] [has] registered the [Disputed] domain name in order to prevent the owner of the trademark 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) [the Respondent] [has] registered the [Disputed] domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the [Disputed] domain name, [the Respondent] [has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the Respondent's] web site or location or of a product or service on [the Respondent's] web site or location.

The Panel, on the basis of the evidence presented, agrees with the Complainant's contentions that the disputed domain names were registered in bad faith and that they have been used in bad faith.

Indeed, it is inconceivable that the Respondent was not aware of the Complainant's rights in the trademark SKOKKA when registering the disputed domain names, in particular because this trademark is registered in the Trademark Clearinghouse and therefore, as demonstrated by the Complainant, the Respondent has received a notification stating that the domain names matched the Complainant's SKOKKA trademark (see also Boehringer Ingelheim International GmbH v. RODRIGO QUEZADA ZAMBRANO, CAC Case No. 102088). Furthermore, the Panel observes that the Complainant's trademark predates the registration of the disputed domain names and is highly distinctive and, as a consequence, there is no doubt that the domain names, identical to the Complainant's mark, were registered in bad faith.

Moreover, the Respondent uses the disputed domain names to redirect users to a gaming website. The Respondent's use and association of the disputed domain names with a gaming site may result in tarnishing Complainant's SKOKKA trademark, Complainant's good will and reputation. The Panel finds that by using domain names identical to the Complainant's trademark in connection with a website to offer products or services unrelated to those offered by Complainant, Respondent has intentionally attempted to attract Internet users to his website for commercial gain by creating a likelihood of confusion with Complainant's trademark, and to create confusion as to the source, sponsorship, affiliation or endorsement of the content therein. Indeed, Respondent's registration and use of the domain names identical to the Complainant's mark to divert traffic to a gaming site is bad faith under paragraph 4(a)(iii) of the Policy. Moreover, such use of the disputed domain names disrupts Complainant's business (see thyssenkrupp AG v. huang hao, WIPO Case No. 2020-1059)

Furthermore, the Panel draws an adverse inference from the Respondent's use of a privacy protection service to conceal its identity. Whilst privacy shields may be legitimate in certain cases, it is difficult to see why the Respondent in this case needs to protect its identity "except to frustrate the purposes of the Policy or make it difficult for a brand owner to protect its trade marks against infringement, dilution and cybersquatting" (see Ustream.TV, Inc. v. Vertical Axis, Inc, WIPO Case No. D2008-0598). Finally, the Panel also finds that the Respondent's failure to take part in the present proceedings constitutes an additional indication of its bad faith. Accordingly, the Panel finds that the Complainant has satisfied also paragraph 4(a)(iii) of the Policy. The Complainant therefore succeeds also on the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **skokka.bio**: Transferred
2. **skokka.boats**: Transferred
3. **skokka.bond**: Transferred
4. **skokka.boutique**: Transferred
5. **skokka.builders**: Transferred
6. **skokka.careers**: Transferred
7. **skokka.cfd**: Transferred
8. **skokka.cloud**: Transferred
9. **skokka.codes**: Transferred
10. **skokka.contact**: Transferred

11. **skokka.engineer**: Transferred
12. **skokka.florist**: Transferred
13. **skokka.forum**: Transferred
14. **skokka.futbol**: Transferred
15. **skokka.golf**: Transferred
16. **skokka.hockey**: Transferred
17. **skokka.homes**: Transferred
18. **skokka.icu**: Transferred
19. **skokka.immo**: Transferred
20. **skokka.industries**: Transferred
21. **skokka.institute**: Transferred
22. **skokka.kaufen**: Transferred
23. **skokka.markets**: Transferred
24. **skokka.mba**: Transferred
25. **skokka.motorcycles**: Transferred
26. **skokka.nagoya**: Transferred
27. **skokka.observer**: Transferred
28. **skokka.sbs**: Transferred
29. **skokka.software**: Transferred
30. **skokka.wang**: Transferred
31. **skokka.bar**: Transferred

PANELLISTS

Name	**Guido Maffei**

DATE OF PANEL DECISION 2024-02-02

Publish the Decision