Decision for dispute CAC-UDRP-106165

Case number	CAC-UDRP-106165
Time of filing	2024-01-17 10:08:22
Domain names	galaxus.zip

Case administrator

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

Complainant

Organization	Digitec Galaxus AG

Complainant representative

Organization	SILKA AB

Respondent

Name	Bea Tesire

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 provides evidence that it owns a portfolio of GALAXUS-formative registered trademarks, including the following examples:

1. Swiss Trademark Registration number 596803 GALAXUS (word mark), registered on February 12, 2010, in international classes 3, 8, 9, 11, 20, 25, 28, 30, 33 and 35.
2. International Trademark Registration number 1035958 GALAXUS (word mark), registered on February 12, 2010, in international classes 3, 8, 9, 11, 20, 25, 28, 30, 33 and 35. The trademark designates the European Union.
3. United Kingdom Trademark Registration number UK00801035958 GALAXUS (word mark), registered on February 12, 2010, in international classes 3, 8, 9, 11, 20, 25, 28, 30, 33 and 35.
4. Swiss Trademark Registration number 710345 GALAXUS (word mark), registered on December 1, 2017, in international classes 1 to 42.
5. International Trademark Registration number 1443953 GALAXUS (word mark), registered on May 14, 2018, in international classes 1 to 42. The trademark designates Germany.

FACTUAL BACKGROUND

The disputed domain name was registered on December 15, 2023. The Complainant states that it has not authorized the Respondent to use its GALAXUS mark for any reason or in any manner, including in or as part of the disputed domain name. The disputed domain name does not appear to resolve to an active website. However, the Complainant provides evidence that the Respondent has used the disputed domain name to create subdomains such as <invoices.galaxus.zip> and <account.erp.galaxus.zip>.

PARTIES CONTENTIONS

The Complainant contends that all requirements under the Policy were met and requests the transfer of the disputed domain name.

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). Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a trademark for purposes of paragraph 4(a)(i) of the Policy. In this particular case, taking into consideration that the Complainant is the owner of a trademark portfolio in respect of the mark GALAXUS -- including in Switzerland where the Respondent purports to reside -- the Complainant clearly meets the requisite rights in a trademark for purposes of paragraph 4(a)(i) of the Policy. The disputed domain name is identical or confusingly similar to the Complainant’s GALAXUS trademark, as it only adds the gTLD .zip.

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). The Complainant states that it has not authorized the Respondent to use its GALAXUS mark for any reason or in any manner, including in or as part of the disputed domain name. Likewise, the Complainant states that is not affiliated or otherwise connected with the Respondent. The Complainant asserts that the disputed domain name implies a high risk of implied false affiliation with the Complainant and its activities, and that the disputed domain name has been registered with the intention of confusing Internet users into thinking that it belonged to the Complainant or was connected with it in some way, when in fact this is not the case. These allegations shift the burden of proof to Respondent to rebut them, if possible. The Respondent has not appeared in this matter so as to dispute any of Complainant's allegations, which are therefore taken as true. Therefore, Respondent has not met its burden of proof on this element, and the Complaint satisfies this element 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). The disputed domain name does not appear to resolve to an active website. However, the Complainant provides evidence that the Respondent has used the disputed domain name to create subdomains such as <invoices.galaxus.zip> and <account.erp.galaxus.zip>. Complainant asserts that it is impossible to think of any good faith use to which the disputed domain name (which clearly postdates the Complainant’s rights in GALAXUS) could be put by the Respondent. The Panel agrees that it is inconceivable that an unrelated and unauthorized party could use such subdomains in any legitimate manner, as such subdomains are often used in the furtherance of phishing or other online fraud schemes. The Respondent has had an opportunity to present any evidence of legitimate registration and/or use, but instead has not appeared to respond to the Complaint in any way. Therefore, the Panel agrees that the disputed domain name has been registered and used in bad faith under this element 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 Complainant provides evidence that the Respondent has used the disputed domain name to create subdomains such as <invoices.galaxus.zip> and <account.erp.galaxus.zip>. The Panel finds that it is inconceivable that an unrelated and unauthorized party could use such subdomains in any legitimate manner, as such subdomains are often used in the furtherance of phishing or other online fraud schemes.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **galaxus.zip**: Transferred

PANELLISTS

Name	**Mike Rodenbaugh**

DATE OF PANEL DECISION 2024-02-21

Publish the Decision