Decision for dispute CAC-UDRP-106152

Case number	CAC-UDRP-106152
Time of filing	2024-01-12 11:04:01
Domain names	bonusratp.biz, bonusratp.info, bonusratp.net, bonusratp.com

Case administrator

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

Complainant

Organization	REGIE AUTONOME DES TRANSPORTS PARISIENS (RATP)

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Rivaldo Tantowi Suhandi

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 owns various trademark registrations for the designation “RATP”, including the European trademark n°008945966 “RATP” (word), registered on January 31, 2011 (and duly renewed) for numerous goods and services in classes 6, 7, 8, 9, 11, 12, 14, 16, 18, 19, 20, 21, 24, 25, 27, 28, 30, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 45.

All disputed domain names were registered on December 16, 2023, i.e., the Complainant’s trademark registration cited above predates the registration of the disputed domain names.

FACTUAL BACKGROUND

The Complainant operates public transport systems. The Complainant’s RATP group of companies is the world's 3rd largest urban transport operator, operating in 15 countries on five continents. It operates nine modes of transport on a daily basis, and employs 71,000 people. Its trademark “RATP” is well-established and highly distinctive.

The disputed domain name <bonusratp.com> resolves to an online gaming platform. The disputed domain names <bonusratp.biz>, <bonusratp.info> and <bonusratp.net> resolve to an error page. MX servers are configured for all four disputed domain names.

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 names. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark "RATP", or to apply for registration of the disputed domain names.

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

All disputed domain names are confusingly similar to the Complainant's distinctive trademark "RATP". For all disputed domains the addition of the descriptive word "bonus" does not change the overall impression that it is connected to the Complainant's trademark "RATP".

The Panel further finds that the Complainant successfully submitted prima facie evidence that the Respondent has neither made any use of, or demonstrable preparations to use, 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, nor is commonly known under the disputed domain names. Using one of the disputed domain names (<bonusratp.com>) for an online gaming website can be considered a "use" of this domain name in connection with an "offering of goods or services" – but as the content of this gaming website has no conceivable connection to the name (or acronym) "RATP" it is not a "bona fide offering" (see below on the corresponding aspects of bad faith). The Complainant's prima facie evidence was not challenged by Respondent.

Regarding <bonusratp.com>, the Panel further finds that the Complainant successfully submitted prima facie evidence that the Respondent has registered and used this disputed domain name in bad faith, namely by intentionally attempting to attract, for commercial gain, internet users to its online gaming website, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's online gambling website (paragraph 4(b)(iv) of the Policy). Again, the Complainant's prima facie evidence was not challenged by the Respondent.

Regarding the unused domain names <bonusratp.biz>, <bonusratp.info>, and <bonusratp.net>, the Panel also finds that the Complainant successfully submitted prima facie evidence that the Respondent was aware of the Complainant's rights in the well-established and highly distinctive trademark "RATP" when registering these domain names. Again, this prima facie evidence was not

challenged by Respondent, which allows the conclusion that these disputed domain names were REGISTERED in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

Given the fact that the domain names <bonusratp.biz>, <bonusratp.info>, and <bonusratp.net> do not resolve to active websites, the primary question for these domain names is whether the Respondent has also USED them in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant's case regarding such bad faith use is that the Respondent is effectively engaged in “passive holding” of the disputed domain names within the terms originally established by Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003. The panel in Telstra noted that the question as to which circumstances of “passive holding” may constitute use in bad faith cannot be answered in the abstract. This question may only be determined on the basis of the particular facts of each case. A panel should give close attention to all the circumstances of the Respondent's behaviour, and a remedy can be obtained under the Policy only if those circumstances show that the Respondent's passive holding amounts to acting in bad faith (cf. Sanofi-aventis v. Gerard Scarretta, WIPO Case No. D2009-0229; Mount Gay Distilleries Limited v. shan gai gong zuo shi, CAC Case No. 100707; RueDuCommerce v. TOPNET, CAC Case No. 100617; INFRONT MOTOR SPORTS LICENCE S.r.l. v. VICTOR LEE, CAC Case No. 100385).

With this approach in mind, the Panel has identified the following circumstances as material to this issue in the present case:

- The Complainant's trademark is highly distinctive. Given the Complainant's market position with business operations in 15 countries on five continents, its trademark is widely known and has a strong reputation;

- the Respondent’s bad faith use regarding the almost identical domain name <bonusratp.biz> indicates that he is willing and able to abuse <bonusratp.biz>, <bonusratp.info>, and <bonusratp.net> in just the same way;
- the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain names, nor can the Panel conceive of any such good faith use; and

- the configured MX servers for all four disputed domain names indicate that there may actually be some kind of active e-mail use of the disputed domain names, even though further details of such potential e-mail use remain unknown because the Respondent has not provided any information in this regard.

Considering the Respondent’s overall behaviour, the Panel cannot conceive of any plausible actual or contemplated active use of <bonusratp.biz>, <bonusratp.info>, or <bonusratp.net> by the Respondent that would not be just as illegitimate as the Respondent’s active use of <bonusratp.com>. The Panel therefore finds that the Respondent’s passive holding of the disputed domain names <bonusratp.biz>, <bonusratp.info>, or <bonusratp.net> also constitutes use in bad faith. All requirements of paragraph 4(a)(iii) of the Policy are therefore met for these domain names, too.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bonusratp.biz**: Transferred
2. **bonusratp.info**: Transferred
3. **bonusratp.net**: Transferred
4. **bonusratp.com**: Transferred

PANELLISTS

Name	**Dr. Thomas Schafft**

DATE OF PANEL DECISION 2024-02-22

Publish the Decision