Decision for dispute CAC-UDRP-106154

Case number	CAC-UDRP-106154
Time of filing	2024-01-17 10:08:13
Domain names	clearscoresolutions.com

Case administrator

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

Complainant

Organization	Clear Score Technology Limited

Complainant representative

Organization	Stobbs IP

Respondent

Name	Emile Joseph

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 <clearscoresolutions.com>.

IDENTIFICATION OF RIGHTS

The Complainant states and provides evidence to support that it is the owner of many CLEARSCORE trademark registrations around the world. The Complainant's registered rights date back to 2015, which pre-dates the registration of the disputed domain name by 8 years. This portfolio of registered trademark rights very clearly demonstrates that the Complainant enjoys rights in the CLEARSCORE trademark within the UK, US and on a global reach.

The Complainant is active on internet under a domain name clearscore.com. The Complainant is also active on social media, where it advertises its brand under the @CLEARSCORE handle, which has generated a notable level of endorsement and internet user following, including Facebook, Instagram or Twitter.

The disputed domain name <clearscoresolutions.com> was registered on June 7, 2023.

FACTUAL BACKGROUND

Clear Score Technology Limited (the Complainant), is a UK company incorporated in 2014. The Complainant operates as a financial technology business, catering to the UK market and was the UK's first service providing individuals with free access to their credit score reports which can be found at clearscore.com. The Complainant has built up significant goodwill in the CLEARSCORE brand,

in the UK and other territories in relation to its financial products and services. The Complainant has a significant number of users and partners with over 150 financial institutions around the world.

PARTIES CONTENTIONS

COMPLAINANT:

• The disputed domain name is confusingly similar to the protected mark

According to the Complainant, the disputed domain name <clearscoresolutions.com> is identical or at least confusingly similar to its trademark CLEARSCORE. The trademark is included in its entirety. The Complainant contends that the addition of the generic term "SOLUTIONS" is merely descriptive of the services offered and does not change the overall impression or meaning of the disputed domain name. It is notable that the CLEARSCORE element, which carries the most significant reputation as the 'parent' brand, appears at the beginning of the disputed domain name where the average internet users pay the most attention.

Moreover, the Complainant contends that the addition of the gTLD ".COM" is merely a technical requirement, used for domain name registrations. This has been confirmed in numerous UDRP decisions.

• The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant submits that the Respondent has never legitimately been known by the name CLEARSCORE at any point in time.

The Complainant provides that based on the considerable reputation of the CLEARSCORE brand, there is no credible, believable, or realistic reason for registration or use of the disputed domain name other than to take advantage of the Complainant's rights and brand reputation. The disputed domain name was registered in 2023. By this point, the Complainant already had rights (both registered and unregistered) in the CLEARSCORE brand, clearly pre-dating the registration of the disputed domain name.

The Complainant submits that the Respondent is using the disputed domain name to resolve to an active website (the "Infringing Website") which offers for sale and/or advertises Credit Score services under the CLEARSCORE name.

The Infringing Website uses the Complainant's registered trademark CLEARSCORE, claiming to offer services to consumers to improve their credit scores, financial service information, credit analysis and credit repair services. The services offered by the Infringing Website are almost identical to that of the Complainant's services under the same CLEARSCORE name and therefore attempts to pass off as the Complainant's brand. The Infringing Website has never been authorised by the Complainant.

Therefore, it is clear that the Respondent does not have a legitimate interest in the disputed domain name. The Respondent's use of the disputed domain name is merely to pass off as the Complainant (and unrelated brands) in order to advertise and sell unofficial services, this shows that they are not using them in relation to a bona fide offering of goods or services.

• The disputed domain name has been registered and is being used in bad faith

According to the Complainant, the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark and is using it in bad faith. The Complainant contends that the disputed domain name is confusingly similar to its well-known trademark CLEARSCORE.

The Complainant submits that the Respondent was aware of the CLEARSCORE brand given the disputed domain name makes use of the Complainant's registered trademark, clearly referring to CLEARSCORE and displaying content relating to credit scores for which the Complainant is commonly known on the Infringing Website. Given that the Complainant is a well-known market leader in financial services, there is no plausible reason for registering a domain with "clearscore + solutions" other than to target the Complainant.

Moreover, the Complainant contends the addition of the generic term "SOLUTIONS" is merely descriptive of the services offered and does not change the overall impression or meaning of the disputed domain name.

The Complainant further states that the Respondent has registered the disputed domain name in bad faith by intentionally attempting to attract, for commercial gain, Internet users to the Infringing Website, by creating a likelihood of confusion with the Complainant's registered trademark as to the source, sponsorship, affiliation, or endorsement of the Infringing Website under Policy, Paragraph 4(b)(iv).

The Complainant states that the Respondent has registered the disputed domain name in order to drive internet traffic to the Infringing Website in order to pass off as the Complainant to advertise unofficial services. Using a trademark to divert traffic to the Respondent's own website is consistently held by panelists to amount bad faith registration and use under Policy, Paragraph 4(b)(iv).

The Complainant further submits that the Respondent disrupts the Complainant's business by diverting potential customers to the Infringing Website promoting unofficial services. Using a confusingly similar domain name in a manner disruptive of a Complainant's business by trading upon the goodwill of a Complainant for the commercial gain evinces bad faith under paragraph 4(b)(iii) and (v) of the Policy.

RESPONDENT:

In the Response to the Complaint, the Respondent provides that while acknowledging that the Complainant may have rights to a similar trademark, the disputed domain name was registered in good faith and has been used in a legitimate manner.

According to the Respondent, the disputed domain name was registered with the intention of utilizing it for projects that align with the generic nature of the scope of the Respondent's business. At the time of registration, the Respondent conducted thorough research to ensure that the disputed domain name was available and not in violation of any existing trademarks. Additionally, the content hosted on the website associated with the disputed domain name is relevant to its generic meaning and does not infringe upon the Complainant's trademark rights.

Furthermore, the Respondent claims that it is important to consider the principles of fair use and the rights of individuals to register domain names that correspond to generic terms. The term "clearscoresolutions.com" is descriptive and commonly used in various contexts across the internet. Therefore, the registration and use of the disputed domain name fall within the bounds of fair competition and do not constitute bad faith.

COMPLAINANT:

In the Reply to the Response, the Complainant submits that the Complainant disputes the validity of the Respondent's claim that the disputed domain name was registered in good faith and that thorough research had been conducted. The Complainant notes that the Respondent has not in fact provided any evidence to support this claim in their Response. The Complainant on the other hand has already submitted in the Complaint that a simple Google Search of the Complainant's business at the time of registration and six months prior would have returned results of the Complainant's business.

The Complainant maintains that the Respondent's use of the CLEARSCORE trademark to advertise and promote highly similar services indicates that more likely than not, the Respondent had prior knowledge of the Complainant's rights at the time of registering the disputed domain name.

The Complainant further avers that the disputed domain name is not generic nor is the content hosted on the content associated with the disputed domain name. Searches on popular online dictionaries such as Oxford English Dictionary and Cambridge Dictionary infer that 'ClearScore' does not have a dictionary defined meaning. A Google Search of 'ClearScore definition' directs users to the Complainant's Wikipedia page, information relating to the Complainant and online articles relating to the Complainant's business. It is therefore implausible that the term is generic and is descriptive of credit score services but has been associated with that of the Complainant's business and reputation. There is no indication that 'CLEARSCORE' is descriptive and commonly used in various contexts across the internet.

According to the Complainant, it appears unlikely that it is a mere coincidence that the Respondent has registered a disputed domain name incorporating the Complainant's trademark, business name and has created content that is highly similar to the Complainant's business.

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).

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).

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).

PROCEDURAL FACTORS

Preliminary issues – the Complainant's unsosolicied supplemental filing

On February 20, 2024, after the Panel appointment, the Complainant made an unsolicited supplemental filing. This filing contains contentions regarding the registration and use of the disputed domain name in bad faith.

Paragraph 10 of the Rules provides panels with the authority to determine the admissibility, relevance, materiality, and weight of the evidence, and also to conduct the proceedings with due expedition.

Accordingly, unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel, pursuant to its general powers under paragraph 12 of the Rules. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 4.6.

Having reviewed the Complainant's unsolicited supplemental filing in this case, the Panel does not consider that the filing contains significant material which could not have been included in the Complainant's original filing, or material which is of such importance that it is liable to be critical to the outcome of the case. In the

circumstances, the Panel determines that the Complainant's unsolicited supplemental filing shall not be admissible in this proceeding.

For all the reasons above, 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 UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY (UDRP) of the Internet Corporation for Assigned Names and Numbers (ICANN) (the "Policy") provides that complainant must prove each of the following to obtain transfer or cancellation of the domain name:

1. that respondent's domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights; and

2. that respondent has no rights or legitimate interests in respect of the domain name; and

3. the domain name has been registered and is being used in bad faith.

1) The disputed domain name is confusingly similar to a trademark in which the Complainant has rights

The Complainant has provided evidence and proved to be the owner of many CLEARSCORE trademark registrations around the world. Essentially, the Respondent has appropriated the trademark CLEARSCORE by adding the generic term "SOLUTIONS" to lead consumers to believe that it is affiliated with the Complainant. In the view of the Panel, the addition of this term does not detract from the confusing similarity of the disputed domain name to the trademark. In fact, the use of the term "SOLUTIONS" in connection with the CLEARSCORE trademark rather strengthens the impression that the disputed domain name is in some way connected to the Complainant or the Complainant's services, and at least the Respondent may be seen to free ride on the reputation of the Complainant and its name and trademark CLEARSCORE.

Moreover, the Respondent appropriated the trademark CLEARSCORE by adding the gTLD ".COM" which, according to the Panel, does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

The disputed domain name is confusingly similar to the Complainant's trademark CLEARSCORE since it fully incorporates the Complainant's trademark CLEARSCORE despite the addition of the generic term "SOLUTIONS" and despite the addition of the gTLD ".COM" which the Panel finds does not eliminate any confusing similarity. It is well-established that "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. This is especially true where, as here, the trademark is "the dominant portion of the domain name," LEGO Juris A/S v. Domain Tech Enterprises, WIPO Case No. D2011-2286, or where the trademark in the domain name represents "the most prominent part of the disputed domain name[] which will attract consumers' attention." Kabushiki Kaisha Toshiba dba Toshiba Corporation v. WUFACAI, WIPO Case No. D2006-0768., and since the term, CLEARSCORE is fully distinguishable with respect to the additional component of the domain name, either because it is placed at the beginning of the domain name, which is where consumers mainly focus their attention, or because the additional element of the domain name is deprived of a distinctive character.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark CLEARSCORE.

2) The Respondent lacks rights or legitimate interests in the disputed domain name

Under the Policy, a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such a prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP (see WIPO Overview 2.0, paragraph 2.1).

The Panel finds that the Respondent does not have a legal right to use the term CLEARSCORE as part of its domain name. The Respondent is not in any way connected with the Complainant, nor is it authorized to register the disputed domain name or use its intellectual property rights for its operations. The Respondent is not known by the Complainant. In fact, the Respondent has never legitimately been known by the name CLEARSCORE at any point in time.

In a present case, the Respondent filed a Response in which it could have provided evidence in support of its rights or legitimate interests. However, the Panel notes that the Respondent has provided zero evidence to support its legitimate interests in the disputed domain name. While the Respondent acknowledges that the Complainant may have rights to a similar trademark, however not even a thorough but a simple Google search of the Complainant's business at the time of registration would have returned results of the Complainant's trademark and brand. The Panel thus believes, that any suggestion that the Respondent was unaware of the CLEARSCORE brand is highly unlikely. The Respondent must have had prior knowledge of the Complainant's rights at the time of registering the disputed domain name.

Prior Panels have consistently held that using domain names for illegal activity (in this case impersonation of the Complainant together with the offer of services under the CLEARSCORE name) is high evidence of illegitimate interest. Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonating, passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. (WIPO Overview 3.0, paragraph 2.13.1).

Furthermore, the nature of the disputed domain name, comprising the Complainant's trademark in its entirety together with the descriptive term "SOLUTIONS", taking advantage of the Complainant's trademark to attract Internet users to the Respondent's website for profit, cannot be considered fair as these falsely suggest an affiliation with the Complainant that does not exist (see section 2.5 of the WIPO Overview 3.0).

Therefore, all these circumstances are sufficient to establish a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name.

The Panel thus takes the view that the Respondent lacks rights or legitimate interests in the disputed domain name.

3) The disputed domain name has been registered and is being used in bad faith

The Panel finds that the disputed domain name is confusingly similar to the Complainant's well-known trademark CLEARSCORE. It is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark. The Complainant's use and registration of the trademark CLEARSCORE precede the registration date of the disputed domain name. The fact that the Respondent has registered a domain name that includes the term CLEARSCORE with the addition of the generic term "SOLUTIONS", and despite the addition of the gTLD ".COM", clearly indicates that the Respondent had knowledge of the Complainant's trademark at the time of registration of the disputed domain name. It is reasonable to conclude that this is evidence of registration of the domain name in bad faith.

In fact, the use of the term "SOLUTIONS" in connection with the CLEARSCORE trademark rather strengthens the impression that the disputed domain name is in some way connected to the Complainant or the Complainant's services, and at least the Respondent may be seen to free ride on the reputation of the Complainant and its name and trademark CLEARSCORE.

The disputed domain name resolves to an active website which offers for sale and/or advertises Credit Score services under the CLEARSCORE name (the "Infringing Website"). The Infringing Website not only uses a very similar trading style to that of the Complainant but also purports to offer identical, or substantially the same, services, which is likely intended to confuse Internet users into thinking that the Respondent's offering is that of, or is closely connected with, that of the Complainant.

The Panel believes that it appears unlikely that it is a mere coincidence that the Respondent has registered a disputed domain name incorporating the Complainant's trademark, business name and has created content that is highly similar to the Complainant's business. The disputed domain name operates by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website. This use seems intentional. Therefore, the facts satisfy the requirements of paragraph 4(b)(iv) of the Policy.'

In the present case, the Panel is of the opinion that the Complainant's CLEARSCORE trademark is distinctive and well-known, which makes it difficult to conceive any plausible legitimate future use of the disputed domain name by the Respondent. The Panel notes that the only reason that the Respondent registered the disputed domain name was to presumably take advantage of the Complainant's goodwill and use its reputation for the Respondent's own commercial benefit.

For all reasons stated above, the Panel is satisfied that the Complainant has proven the third element of the Policy that is that the Respondent's registration and use of the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **clearscoresolutions.com**: Transferred

PANELLISTS

Name	**Barbora Donathová**

DATE OF PANEL DECISION 2024-02-29

Publish the Decision