Decision for dispute CAC-UDRP-106338

Case number	CAC-UDRP-106338
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Domain names	springermedpress.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Springer-Verlag GmbH

Complainant representative

Organization	Stobbs IP

Respondent

Organization	Readsmart

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, Springer-Verlag GmbH, is the owner of several trademark registrations for the word “SPRINGER”, inter alia

UK Registration No. UK00915552482 for Springer, registered on 1 December 2016;

EU Registration No. 003745544 for SPRINGER, registered on 15 July 2005;

US Registration No. 3371631 for SPRINGER, registered on 22 January 2008; and

International trademark Registration No. 1472118 for SPRINGER, registered on 5 March 2019

(“SPRINGER trademark”).

FACTUAL BACKGROUND

The Complainant is a German company incorporated in 1842, which is part of the Springer Nature group of publishing companies.

Springer Nature publishes academic journals, books, and e-books. The Springer Nature group has won numerous prizes and awards.

The disputed domain name <springermedpress.com> has been registered to the Respondent since at least March 11, 2024.

PARTIES CONTENTIONS

Complainant

The Complainant argues that the disputed domain name is confusingly similar to its SPRINGER Trademark, noting that the domain name contains its SPRINGER Trademark in its entirety.

The Complainant alleges that the addition of the generic and descriptive terms "med" (which is an abbreviation of the generic terms "medical" or "medicine" in English and also describes the content available on the website associated with the disputed domain name, which consists of books on various medical practices and theories) and "press" (which is a generic noun in English referring to printed publications and also refers to the content available on the website associated with the disputed domain name, which advertises published medical and scientific books) are not sufficient to avoid a finding that the disputed domain name is confusingly similar to the SRPINGER Trade mark.

Complainant alleges that Respondent has intentionally selected the terms contained in the disputed domain name with the intent to mislead Complainant's customers and Internet users into believing that the disputed domain name belongs to Complainant and/or is associated with Complainant, the SPRINGER trademark, a division of Complainant, or a service associated with Complainant.

Complainant alleges that the SPRINGER trademark is recognizable within the disputed domain name and is placed at the beginning of the domain name, which is the part to which Internet users pay the most attention.

Further, Complainant contends that Respondent has no rights or legitimate interests in the disputed domain name.

In particular, the Complainant states that (i) the Complainant has not granted the Respondent any authorization or license to use the SPRINGER trademark or its trade name, and therefore the Respondent has no rights (including trademark rights) in the term "SPRINGER". There is no business or legal relationship between the Complainant and the Respondent; (ii) the Respondent is using the disputed domain name and the related website to impersonate the Complainant and/or to pass off its goods and services as those of the Complainant because the website prominently displays the SPRINGER trademark in various places and purports to promote and offer medical, scientific and research books and related services, which are the Complainant's principal business activities; (iii) Respondent's use of the Disputed Domain Name is not in connection with a bona fide offering of goods or services, as Respondent is also engaged in the publishing industry with a specific focus on medical, scientific, and other educational textbooks, and there is no credible or realistic reason for the registration or use of the disputed domain name other than to take advantage of Complainant's reputation and the SPRINGER Trademark; (iv) the Respondent is not commonly known by the disputed domain name; and (v) the Respondent is not making a legitimate, non-commercial, or fair use of the disputed domain name without intent or commercial gain to deceive Complainant's consumers.

The Complainant alleges that the Respondent has registered and is using the disputed domain name in bad faith. The Complainant asserts that its rights in the SPRINGER trademark predate the creation of the disputed domain name, in some cases by several decades. Further, Complainant contends that it, its SPRINGER trademark, and its SPRINGER trade name have a longstanding and extensive reputation in the publishing industry. For these reasons, the Complainant contends that the Respondent has clearly targeted the Complainant's trademark and related businesses and that the Respondent was aware of Complainant's rights when it registered the disputed domain name. This is further strengthened by the fact that the Respondent is the director of companies whose principal activities include the publication of medical, scientific and educational textbooks.

The Complainant further alleges that the disputed domain name resolves to a website used to impersonate the Complainant for financial gain, which constitutes bad faith.

Respondent

No administratively compliant response has been submitted by the Respondent.

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).

The Complainant has successfully demonstrated that it is the rightful owner of several trademark registrations, in particular in the United Kingdom, the United States, and the European Union, for the mark "SPRINGER". The Panel acknowledges that the Complainant's SPRINGER trademark is clearly identifiable in the disputed domain name and agrees with the Complainant that the additional words contained in the disputed domain name, namely "med" and "press," are descriptive and generic and insufficient to prevent a likelihood of confusion with the Complainant's trademark. On the contrary, the Panel notes that it is logical to assume that the presence of these descriptive terms in the disputed domain name, which relate to the Complainant's publishing activities, further

increases the risk of confusion of the disputed domain name with the Complainant's trademark.

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).

A complainant is required to establish a prima facie case that the respondent lacks rights or legitimate interests. Once such a case is made, the burden of proof shifts to the respondent to demonstrate their rights or legitimate interests in the disputed domain name. Failure to do so results in the complainant satisfying paragraph 4(a)(ii) of the Policy (as per Article 2.1 of WIPO Jurisprudential Overview 3.0 and WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

Based on the contentions of the Complainant, the Panel finds that the Complainant has successfully established a prima facie case that the Respondent lacks rights or legitimate interests. As the Respondent has failed to provide relevant evidence demonstrating any such rights or legitimate interests, the Complainant is deemed to have satisfied the second element.

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).

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark (see Article 3.1. of WIPO Jurisprudential Overview 3.0).

Registration in bad faith

In determining that the disputed domain name was registered in bad faith, the Panel considered, among other things, the following factors:

(a) the Complainant's long-standing presence in the marketplace and significant reputation, as evidenced by the evidence submitted by the Complainant;

(b) the fact that the Complainant's SPRINGER trademarks were registered many years prior to the registration of the disputed domain name in 2024 (e.g., EU registration No. 003745544 as early as 2005); and

(c) the selection of the disputed domain name, which is composed of the Complainant's well-known trademark in combination with the terms "med" and "press," which are related to the Complainant's activities;

Based on the foregoing, the Panel concludes that the Respondent must have been aware of the Complainant and its SPRINGER trademark when it registered the disputed domain name.

Therefore, the Panel finds that the Respondent registered the disputed domain name in bad faith.

Use in bad faith

The disputed domain name incorporates the Complainant's distinctive mark in its entirety, creating an impression of association with the goods/services marketed by the Complainant and a likelihood of confusion with its marks.

The evidence submitted by the Complainant further demonstrates that the Respondent uses the disputed domain name for a website that advertises, inter alia, published medical and scientific books. The Panel finds that such use is not for bona fide offerings, but rather an attempt to attract Internet users to the website for commercial gain by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement.

Therefore, the Panel finds that the disputed domain name is being used in bad faith.

PROCEDURAL FACTORS

In the course of the proceeding, the Panel issued a procedural order requiring the Complainant to remedy the deficiency in the Complaint and to correctly identify the Complainant. This deficiency was remedied by the Complainant in its response of April 25, 2024.

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 Panel has determined that the disputed domain name is confusingly similar to the Complainant's trademark.

Based on the contentions presented by the Complainant, the Panel has found that the Complainant has satisfactorily made a prima facie case that the Respondent lacks rights or legitimate interests. As the Respondent has failed to provide relevant evidence demonstrating any such rights or legitimate interests, the Complainant is deemed to have satisfied the second element.

The Panel finds that, based on the Complainant's contentions and evidence, it can be concluded that the Respondent must have been aware of the Complainant's trademarks when it registered the disputed domain name, and as such, the Respondent has registered the disputed domain name in bad faith.

Lastly, the Panel has concluded that the Complainant has successfully proven that the disputed domain name is being used in bad faith.

Therefore, for the aforementioned reasons, the Panel orders that the disputed domain name <springermedpress.com> be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **springermedpress.com**: Transferred

PANELLISTS

Name	**Karel Šindelka**

DATE OF PANEL DECISION 2024-04-25

Publish the Decision