Decision for dispute CAC-UDRP-106315

Case number	CAC-UDRP-106315
Time of filing	2024-05-27 09:26:23
Domain names	lakogep.com

Case administrator

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

Complainant

Organization	LAKÓGÉP Építőipari Szolgáltató és Kereskedelmi Korlátolt Felelősségű Társaság

Complainant representative

Organization	OPLgunnercooke Assosiation of Law Firms

Respondent

Organization	GH Partner

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 is the owner of the Hungarian registered word trademark for the term “LAKÓGÉP” (filing no.: M2400823, registration no. 243039) registered on March 12, 2024.

The Complainant also owns the domain name <lakogep.hu> (created on 7 February 2014).

FACTUAL BACKGROUND

The Complainant is a construction firm incorporated and registered in Hungary, has established itself as a leading provider of Engineering, Procurement, and Construction (EPC) services for fast-track industrial developments in the country. The Complainant has over 31 employees in Hungary and recorded a turnover of approx. EUR 4,557,249 in the financial year 2022.

The Complainant operates a general corporate website at <lakogep.hu>.

The Complainant uses, inter alia, the domain name <lakogep.hu> and its trademark “LAKÓGÉP” for its services and as company name.

The disputed domain name has been registered by the Respondent on January 31, 2024.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name 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 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

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

As the Respondent did not file an administratively compliant Response, pursuant to paragraph 14(b) of the Rules, the Panel may draw such inferences therefrom as it considers appropriate. Thus, the Panel accepts the contentions of the Complainant as admitted by the Respondent.

I. The disputed domain name is confusingly similar to the trademark “LAKÓGÉP” of the Complainant.

The Complainant has, to the satisfaction of the Panel, shown that it has valid rights for the trademark “LAKÓGÉP”.

The term “trademark or service mark” as used in UDRP paragraph 4(a)(i) encompasses both registered and unregistered marks. The fact that the registration date of the disputed domain name is prior to the registration of the trade mark is irrelevant in terms of the similarity of the disputed domain name and the trademark of the Complainant (see decision in Stoneygate 48 Limited and Wayne Mark Rooney v Huw Marshall, WIPO Case No. D2006-0916).

Irrespective of this, the Complainant has an active online presence which it has operated for more than 10 years under the domain name <lakogep.hu>. The initially unregistered word and figurative mark "LAKÓGÉP" has been used on Complainant's company website since 2021.

This shows that the Complainant is the owner of further rights, namely a company name and a domain name, both of which have been used continuously and intensively in business transactions since its foundation in 2011 and were registered before the registration of the disputed domain name, i.e. well before 31 January 2024.

The disputed domain name is - apart from the accents above the letters "o" and "e" - entirely composed of and thus very identical to the Complainant's word mark "LAKÓGÉP".

The top-level domain name <.com> is only necessary for technical reasons and can be disregarded when comparing the disputed domain name with the Complainant's trade mark.

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is confusingly similar to the trademark “LAKÓGÉP” of the Complainant.

II. The Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of the Policy.

The Complainant has established a prima facie proof that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to use its trademark in a domain name.

Also, the domain name at stake does not correspond to the name of the Respondent and he is not commonly known as “LAKÓGÉP” or “LAKOGEP” prior to or after the registration of the disputed domain name.

Further, the Complainant has found no evidence that the Respondent has ever traded legitimately under the business name “LAKÓGÉP” or “LAKOGEP”.

Summarised, there is no evidence for a use of the disputed domain name for any bona fide offer of goods or services or a legitimate non-commercial or fair use.

III. The disputed domain name has been registered and is being used in bad faith within the meaning of the Policy.

This is initially supported by the identity of the disputed domain name with the name of the Complainant. Given the circumstances of this case, as described below this coincidence suggests that the Respondent was aware of the existence and meaning of the "LAKÓGÉP" name when registering the disputed domain name. It is therefore hardly conceivable that the registration was made without the intention of harming the Complainant , and the Respondent's registration of the domain name on 31 January 2024 was made without the existence of an active website. This indicates that the domain name is not being used in good faith.

In addition, the domain name was configured with mail servers (MX records), suggesting that it could be used for fraudulent email communications, for example to carry out phishing attacks or to give the impression that it is a legitimate communication from the Complainant, i.e. their employees or their CEO. The Complainant submits - and the Panel concedes as proven according to paragraph 14(b) of the Rules - the use of the “LAKÓGÉP” trademark in the e-mail addresses to impersonate the employees and CEO (at the time of the scam) of the Complainant for fraudulent purposes by the Respondent. This is supported by the fact that MX servers are set up for the disputed domain name, and no reason to use the disputed domain name in good faith as part of an email address is at hand.

The Respondent also provided incomplete or false contact information and used a data protection service to conceal his identity, which is also seen as an indication of bad faith behaviour.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **lakogep.com**: Transferred

PANELLISTS

Name	**Dominik Eickemeier**

DATE OF PANEL DECISION 2024-07-04

Publish the Decision