Decision for dispute CAC-UDRP-106666

Case number	CAC-UDRP-106666
Time of filing	2024-07-04 09:28:43
Domain names	g7taxiclick.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	G7

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Yacine Touati

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, amongst others, of the following trademark registrations:

- French trademark "G7" (dev.) no. 4259547, filed on 24/03/2016 and granted on 15/07/2016 in class 12;

- EUTM "G7" (dev.) no. 16399263, filed on 23/02/2017 and granted on 07/07/2017 for classes 37, 38 and 39;

- EUTM "TAXIS G7" no. 8445091, filed on 06/07/2009 and granted on 12/01/2010 for classes 9, 12, 35, 37, 38 and 39 and duly renewed.

FACTUAL BACKGROUND

Founded in 1905, G7 Group is Europe's leading cab operator, and holds the leading cab booking platform in France and Europe, with 10,000 affiliated cabs. It also provides vehicle rental and logistics services. G7 GROUP covers over 20 countries and over 230 cities in France, which makes it possible to carry out over 33 million people transported each year.

The Complainant owns a large portfolio of trademarks including the wording G7 with legal effects in all the European Union from 2009.

Furthermore, the Complainant owns multiple domain names consisting in the wording G7, such as <taxis-g7.com> registered since January 17, 1997.

The disputed domain name <g7taxiclick.com> was registered on July, 2, 2024 and redirects to a website purporting to be a Complainant’s competitor by offering taxi services. Besides, MX servers are configured.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant submits sufficient evidence in order to prove its trademark rights on the term G7.

Furthermore, the Complainant contends, in relevant part, as follows:

- The disputed domain name <g7taxiclick.com> is confusingly similar to the Complainant trademarks as the trademark G7 is identically reproduced and the addition of the term CLICK is not sufficient to avoid the likelihood of confusion.

- The Respondent has no rights or legitimate interests in respect of the disputed domain name <g7taxiclick.com> because:

(i) it is not related in any way with the Complainant;

(ii) neither license nor authorization has been granted to the Respondent to make any use of the Complainant trademarks, or apply for registration of the disputed domain name by the Complainant;

(iii) the Respondent uses the disputed domain name to offer services in direct competition with the Complainant and using a confusingly similar domain name that resolves to a competing webpage is not a bona fide offering of goods or services.

- The disputed domain name has been registered and used in bad faith because the Respondent registered the disputed domain name with actual knowledge of the Complainant´s trademarks and the disputed domain name <g7taxiclick.com> points to a website offering competing services. The Complainant further argues that the Respondent registered and used the disputed domain name to attract Internet users and offer possibly fraudulent services while impersonating the Complainant or, at a minimum, disrupt the Complainant’s business by offering services in direct competition with the Complainant. Furthermore, the Complainant notes that the disputed domain name has been set up with MX records which suggests that it may be actively used for email purposes. This, in the Complainant's view, is also indicative of bad faith registration and use because any email emanating from the disputed domain name could not be used for any good faith purpose.

RESPONDENT:

The Respondent contends, in relevant part, as follows:

- The disputed domain name <g7taxiclick.com> contains the elements G7 and TAXI, but it also includes the term CLICK, and the combination of these terms creates a unique domain name intended for a specific online taxi booking service that stands apart from the Complainant’s existing business;

- The disputed domain name in dispute was chosen to reflect the online nature of the services offered and does not imply an affiliation with the Complainant;

- Prior to any notice of the dispute, the Respondent has made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of services including the development of a website and business plan for the online taxi booking service;

- The disputed domain name was not registered with the intent to sell, rent, or transfer it to the Complainant or any competitor for a profit;

- The Respondent has not registered the disputed domain name to prevent the Complainant from reflecting its mark in a corresponding domain name;

- The disputed domain name <g7taxiclick.com> is intended for a legitimate online service, which operates independently and does not compete directly with the Complainant's services;

- The disputed domain name <g7taxiclick.com> is not intended to attract internet users by creating confusion with the

Complainant's trademark; in particular, in the Respondent's view, the addition of the term CLICK clearly indicates an online service, differentiating it from the Complainant's traditional and digital taxi service;

- The Respondent is not using the disputed domain name for any monetary benefit as there are clearly no commercial products being promoted and offered for sale;

- The web site under the domain name in dispute makes no reference to the business carried out by the Complainant.

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

Paragraph 4(a) of the Policy provides that to obtain the transfer of the disputed domain name, the Complainant must prove that each of the following elements is present:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

1) The Complainant has demonstrated its rights in its registered trademarks G7 and TAXIS G7. The Complainant has also registered the domain name <taxis-g7.com> among others. The disputed domain name <g7taxiclick.com> incorporates the Complainant established trademarks in its entirety (G7) or almost in its entirety (TAXIS G7) and adds the term CLICK. Concerning the addition of the term "click", the Panel disagree with the Respondent's view that said addition creates a unique domain name different from the Complainant existing trademarks. Actually, the Panel agrees with the Complainant that the use of its marks with a generic word does not reduce confusing similarity. In the present case the word CLICK in the disputed domain name, along with G7 TAXI, appears to be intentionally chosen and used by the Respondent to create a likelihood of confusion with the Complainant´s trademarks and business. Given the fame of the Complainant's mark, the Panel finds the addition of the word CLICK does not distinguish the Respondent's disputed domain name from the Complainant´s marks. Panels in previous cases have held that the word "CLICK(S)" does not by itself distinguish the disputed domain name in dispute from the Complainant's mark (See for instance, Corbis Corporation v. RegisterFly.com/Whois Protection Service/surf advertising company/ Joseph, Graham, WIPO Case No. D2006-0546 regarding <corbisclicks.com> and Artisticas Ltda.v. BlessHost Internet, WIPO Case No. D2007-0979 concerning the domain name <clickxuxa.com>). Finally, in accordance with the consensus view of past UDRP panels, the Panel finds that the Top-Level domain (".COM" in this case) is not sufficient to exclude the likelihood of confusion since it is a mere technical requirement included in all domain names. The Complainant therefore succeeds on the first element of the Policy.

2) The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name <g7taxiclick.com> and that the Respondent is not related in any way with the Complainant. Furthermore, the Complainant informs that it does not carry out any activity for, nor has any business with the Respondent and that neither license nor authorization has

been granted by the Complainant to the Respondent to make any use of the Complainant trademarks, or apply for registration of the disputed domain name. In addition, the Panel has duly noted that the domain name in dispute points to a website offering online taxi services. The Panel disagrees with the Respondent's view that the Respondent's online taxi service is different from the Complainant's traditional and digital taxi service since the online taxi service is a physiological evolution of the traditional taxi service and it is simply a different way to offer an identical service. Therefore, the Panel's view is that the Respondent is using the domain name in dispute to offer services of a Complainant's competitor. Now, the use of a disputed domain name to offer competing goods or services may not qualify as a bona fide offering of goods or services nor as a legitimate non-commercial or fair use under Policy (See G7 v. Amin Guefa, CAC Case no. 105600). On the basis of the evidence submitted, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant therefore succeeds on the second element of the Policy.

3) Bad faith registration can be found where a respondent "knew or should have known" of a complainant's trademark rights and nevertheless registered a domain name in which it had no right or legitimate interest (See Accor v. Kristen Hoerl, WIPO Case No. D2007-1722). As detailed above, the Respondent registered the domain name <g7taxiclick.com> which is confusingly similar to the Complainant´s distinctive marks. In the Panel's view there is no explanation for the Respondent to have chosen to register the domain name in dispute other than to intentionally trade off the goodwill and reputation of the Complainant trademarks or otherwise create a false association with the Complainant. Actually, contrary to the Respondent assertions, the Panel is convinced that the addition of the term CLICK does not show the absence of bad faith since, on the contrary, the insertion of the G7 element in the disputed domain name inevitably indicates the Respondent's intention of creating a false association with the Complainant. Therefore, as to the registration of the disputed domain name in bad faith, the reputation of the Complainant's trademark is such that, in the Panel's view, the Respondent could not ignore the Complainant trademarks at the time of the registration of <g7taxiclick.com>. It is therefore obvious that the Respondent selected the disputed domain name to create confusion with the Complainant´s business. It is the Panel's view that the Respondent was in bad faith when it decided to register the domain name in dispute since said registration was done having perfectly in mind the Complainant trademark and the Complainant's business activity. In addition, the Respondent registered the domain name in dispute and linked it to a website offering services in competition with the Complainant. This, obviously amounts to bad faith use of the disputed domain name by the Respondent. (See Identigene, Inc. v. Genetest Labs, WIPO Case No. D2000-1100 and MathForum.com, LLC v. Weiguang Huang, WIPO Case No. D2000-0743). Finally, the Panel has verified that the Respondent has set up "MX-records" for the disputed domain name. This entails that the Respondent can send e-mails through the e-mail address "@g7taxiclick.com". The Respondent can therefore use the disputed domain name to send fraudulent e-mails such as messages containing spam and/or phishing attempts that Internet users could well assume were sent by the Complainant (See Conféderation Nationale du Crédit Mutuel, Crédit Industriel et Commercial v. Khodor Dimassi, WIPO Case No. D2016-1980 and Paris Saint-Germain Football v. MHP Private, WIPO Case No. D2019-0036). In consideration of the above, the Panel deems that the domain name in dispute was registered and used in bad faith and, accordingly, that the Complainant has satisfied also the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **g7taxiclick.com**: Transferred

PANELLISTS

Name	**Guido Maffei**

DATE OF PANEL DECISION 2024-07-16

Publish the Decision