# Decision for dispute CAC-UDRP-106650

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| Case number | CAC-UDRP-106650 |
| Time of filing | 2024-07-01 12:46:14 |
| Domain names | ClearStream.fund |

## Case administrator

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

## Complainant

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| Organization | Clearstream Services, société anonyme |

## Complainant representative

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| Organization | Grünecker Patent und Rechtsanwälte PartG mbB |

## Respondent

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| Organization | 1337 Services LLC |

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 holder of a large number of trademarks for CLEARSTREAM in different jurisditctions. By way of example:

European Union Intellectual Property Office (EUIPO) for CLEARSTREAM with registration number 001403476 applied on November 29, 1999 and duly registered.

United States Patent and Trademark Office (USPTO) for CLEARSTREAM with registration number 2477515 applied on January 06, 2000 and duly registered.

FACTUAL BACKGROUND

The Complainant is a is fully owned by Deutsche Börse AG financial services company that specializes in the settlement of securities transactions. The Complainant provides post-trading services ensuring that cash and securities are promptly and effectively delivered between trading parties. The Complainant maintains relationship with customers in over 110 countries.

The Complainant is the owner of <clearstream.com> since February 7, 1997 which resolves to its official website.

The disputed domain name was registered on December 20, 2023 and does not resolve to an active website. However, the disputed

domain name has been used to send an email to a third party impersonating the Complainant and requesting to open an account in a bitcoin provider to receive compensation. The said email provided a link to the Complainant´s official site.

PARTIES CONTENTIONS

THE COMPLAINANT

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it. Notably, the Complainant alleges that the Respondent is not sponsored by or affiliated with the Complainant in any manner. The Respondent´s registration is an attempt to encash upon the Complainant´s goodwill and reputation.

THE RESPONDENT

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

1. Identical or Confusingly Similar

The Complainant has shown rights in respect of CLEARSTREAM trademark for the purposes of the Policy. It is apparent that the mark CLEARSTREAM is identical to the disputed domain name <clearstream.fund>. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy.

The applicable Top Level Domain (‘TLD’) in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element test.

The Panel finds the first element of the Policy has been established.

2. Rights or Legitimate Interest

Paragraph 4(c) of the Policy sets out non-exclusive examples in which the Respondent may establish rights or legitimate interests in the disputed domain name. However, while the burden of proof in UDRP proceedings rests on the complainant, panels have recognized that proving a respondent lack or rights or legitimate interests in a domain name may result in the often-impossible task of “proving a negative”. Accordingly, panels have established, since the inception of the UDRP, that it is sufficient to raise a prima facie case against the respondent and then the evidential burden of production shifts to the respondent. See CAC-UDRP-106452

The Panel finds that the circumstances referred in paragraph 4(c) do not apply for the Respondent. Indeed, there is no evidence in the records in favor of the Respondent to be commonly known by the disputed domain name.

Further, the Panel has checked the submitted evidence reproducing the email received from the Respondent to a third party and finds that he is impersonating or at very least falsely suggesting affiliation with the Complainant when there is no authorization or license to use the Complainant's trademark in any manner. Namely, by reproducing the Complainant's trademark in the disputed domain name or, by providing a link in the message signature to the Complainant´s official site or, even the content of the text of the email referring to Complainant's own activity, the Respondent is giving the false impression of being the Complainant or someone affiliated. Accordingly, the Panel finds that the Respondent used the disputed domain name in connection with an illegal activity, e.g. impersonating a third party. Such use can never confer rights or legitimate interest to the Respondent as rightly notes the Complainant.

The Panel finds the second element of the Policy has been established.

3. Register and Used in Bad Faith

Noting that bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark, the Panel now looks at the third requirement of the test.

By registering the disputed domain name that reproduces Complainant's trademark, the Respondent targeted the Complainant. The subsequent use of the disputed domain name impersonating the Complainant leads the Panel to conclude that the Respondent knew or should have known about the Complainant and its trademarks when registering the disputed domain name. Therefore, in bad faith.

Moreover, the Panel refers to the previous element of the Policy where an illegal activity of the Respondent has been identified due to the attempt to impersonate the Complainant seemingly in order to make a profit. This is deemed a use in bad faith.

The Panel finds that the Complainant has established 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. **ClearStream.fund**: Transferred

## PANELLISTS

| Name | **Manuel Moreno-Torres** |
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DATE OF PANEL DECISION 2024-08-02

Publish the Decision