

Decision for dispute CAC-UDRP-106748

Case number	CAC-UDRP-106748
Time of filing	2024-07-30 09:33:13
Domain names	instantbrasil.com, instantcanada.net, instantdanmark.com, instanteesti.com, instantgreece.net, instantisrael.net, instantitalia.com, instantnz.com, instantpolska.com, instantportugal.com, instantpotbulgaria.com, instantsrbija.com, instantsuomi.com

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	IB Appliances US Holdings, LLC
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Complainant representative

Organization	Stobbs IP
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Respondent

Name	Zhang Qiang
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant owns extensive rights in its INSTANT brand, e.g. WIPO IR registration 1511837, for goods and services in classes 7, 9, 11, 16, 17, 21, 25, 29, 30, 32, 35, 38 in Australia, Bahrain, China, EUIPO, United Kingdom, Indonesia, Israel, India, Japan, Republic of Korea, Mexico, Malaysia, Philippines, Russian Federation, Singapore, Thailand, Turkey, United States, Vietnam.

FACTUAL BACKGROUND

Since launching its INSTANT branded multicooker in 2008, the branded has gained widespread acclaim and commercial success. On Amazon Prime Day 2016, the Instant Pot multicooker sold 215,000 units alone. The INSTANT brand has extensive reach offering its products and services worldwide.

The Complainant has an active online presence including owning the domain name instantpot.com which is used for the main operating website at <instantpot.com>, with the website being live since at least as early as 22 May 2009. The Complainant is also active on social media.

The disputed domain names were all registered on 13 December 2023 for the Respondent.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names 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 names are 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 names (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 names have been registered and are 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 has not filed any 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. Taking the statements and documents submitted by the Complainant under careful consideration, the Panel concludes, that the Complainant has established all the elements entitling it to claim the transfer of the disputed domain names.

1. The disputed domain names are confusingly similar to the trademarks of the Complainant.

The Complainant has, to the satisfaction of the Panel, shown that it has valid rights for multiple trademarks "Instant".

All 13 disputed domain names include the Complainant's trade mark "Instant" in its entirety. The disputed domain names include the Complainant's INSTANT mark as the dominant element, along with geographical terms (e.g. "polska"). In one case, additionally, the word "pot" is added between the trade mark and the geographical term ("instandpotbulgaria"). Any such inclusion does not alter the overall impression in the eyes of the average Internet user that the disputed domain name are confusingly similar to the trade mark of the Complainant. Neither is the TLD suffix ".COM" sufficient to invalidate the finding that the disputed domain names are confusingly similar to the Complainant's trademark.

2. The Respondent has no rights or legitimate interests in respect of the disputed domain names 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 names, 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.

Further, the disputed domain names do not correspond to the name of the Respondent nor is he commonly known as "Instant" prior to or after the registration of the disputed domain names. It is therefore not apparent that the website is to be used for bona fide reasons.

Moreover, the disputed domain names resolve to active websites where - according to the submission of the Complainant which is accepted by the Panel counterfeit and competing products to those of the Complainant are distributed. This clearly demonstrates a lack of legitimate interest in respect of the disputed domain names.

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

3. The disputed domain names have been registered and is being used in bad faith within the meaning of the policy.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

The Complainant's trademark "Instant" is well-established and has already been well known at the time, the Respondent registered the disputed domain names. Given the reputation of the Complainant's trademark, it can be concluded that the Respondent has registered the disputed domain names with full knowledge of the Complainant's trademark. This is also indicated by the domain name "instantpotbulgaria.com" as there is a clear reference to the products of the Complainant sold under this trade mark.

The structure of the disputed domain names and the websites offer linked to them show that the Respondent registered them with the Complainant and its trademark in mind. This shows the Respondent's clear intention to create an association and thus a likelihood of confusion with the Complainant's trademark in the mind of internet users.

The Complainant contents and the Panel agrees that the Respondent has registered the disputed domain names in bad faith by intentionally attempting to attract, for commercial gain, Internet users to the Infringing websites, by creating a likelihood of confusion with the Complainant's registered trade mark as to the source, sponsorship, affiliation, or endorsement of the infringing websites under Policy, Paragraph 4(b)

Using a trade mark to divert traffic to the Respondent's own websites is proof bad faith registration and use under Policy, Paragraph 4(b)(iv). According to paragraph 4 (b) (iv) of the Policy, such a likelihood of confusion is a circumstance in which bad faith registration and use can be assumed.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **instantbrasil.com**: Transferred
2. **instantcanada.net**: Transferred
3. **instantdanmark.com**: Transferred
4. **instanteesti.com**: Transferred
5. **instantgreece.net**: Transferred
6. **instantisrael.net**: Transferred
7. **instantitalia.com**: Transferred

8. instantnz.com: Transferred
 9. instantpolska.com: Transferred
 10. instantportugal.com: Transferred
 11. instantpotbulgaria.com: Transferred
 12. instantsrbija.com: Transferred
 13. instantsuomi.com: Transferred
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PANELLISTS

Name	Dominik Eickemeier
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DATE OF PANEL DECISION	2024-09-02
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Publish the Decision
