Decision for dispute CAC-UDRP-106767

Case number	CAC-UDRP-106767
Time of filing	2024-08-02 09:40:23
Domain names	genshin.global

Case administrator

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

Complainant

Organization	miHoYo Co., Ltd

Complainant representative

Organization	Zacco Sweden AB

Respondent

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 owner, among others, of the International TM registration No.1652156 GENSHIN IMPACT, registered on August 11, 2021, as well as of many further trademark applications comprising the GENSHIN term.

Furthermore, the Complainant owns the domain name <genshinimpact.com> since June 7, 2019.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant states that it is a Chinese videogame development and publishing company, established in 2011 and with around 5000 employees.

The Complainant further states that it is the owner of the GENSHIN IMPACT trademark since 2021, which denotes a popular action role-playing game.

The disputed domain name was registered on May 2, 2022 and it resolves to a website that claims to be a fansite of GENSHIN IMPACT, offering merchandising and using copyright directly connected with the Complainant, without any authorization from the

latter.

PARTIES CONTENTIONS

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

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 disputed domain name <genshin.global> is confusingly similar to the GENSHIN IMPACT trademark, as it fully incorporates the most distinctive portion of such trademark (GENSHIN), with the addition of the .global gTLD, which is irrelevant when determining the confusing similarity between the earlier Complainant's trademark and the disputed domain name.

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

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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).

According to the most relevant UDRP case law, a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

Given what stated by the Complainant and without any response from the Respondent, the Panel infers that there is no indication that the disputed domain name was intended to be used in connection with a bona fide offering of goods or services as required by the Policy.

The evidentiary burden shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. However, the Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in

respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

The Panel thus finds that Complainant has proven the second element of the Policy.

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The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name.

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, of the disputed domain name, neither in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name. Indeed, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark GENSHIN IMPACT. Please see for instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.

Here, Complainant has specifically argued that bad faith exists pursuant to, inter alia, paragraph 4(b)(iv) of the UDRP, because the disputed domain name resolves to an unauthorized website merchandising GENSHIN IMPACT-related products, where the Complainant’s copyrighted images and trademarks are widely displayed without any authorization, thus contributing to create a confusing similarity with the Complainant’s business activity, which obviously cannot be avoided by a mere disclaimer underlining this would be a "fanmade website". Indeed, a fan site should be genuinely noncommercial and clearly distinct from any official complainant site to be registered in good faith, and this is not the case.

It is quite undeniable that the Respondent is intentionally creating the false impression of affiliation to or endorsement by the Complainant, thus disrupting the Complainant’s business in an attempt to exploit the renown of the GENSHIN IMPACT trademark notoriety.

Consequently, the believes that that the disputed domain name was registered and is being used by the Respondent in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **genshin.global**: Transferred

PANELLISTS

Name	**Tommaso La Scala**

DATE OF PANEL DECISION 2024-09-07

Publish the Decision