Decision for dispute CAC-UDRP-106956

Case number	CAC-UDRP-106956
Time of filing	2024-11-04 15:26:34
Domain names	c2play.com

Case administrator

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

Complainant

Organization	c2Play

Respondent

Name	Adres Marka

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 claiming right over the unregistered denominations “c2Play” or “c2play”, which he has been using for designation of the video game “Counter-Strike: Source” since December 2010. The Complainant does not have any registered trademark for the denominations “c2Play” or “c2play”.

Apart the unregistered right claimed over the denomination “c2Play”, the Complainant holds the following domain names: <c2play.de>, <c2play.org> and <c2play.net>.

FACTUAL BACKGROUND

The Complainant operates “c2Play,” a popular platform offering game servers for the video game Counter-Strike: Source since 2010. Despite the release of its successor, Counter-Strike: Global Offensive (now Counter-Strike 2), c2Play has remained the largest provider of servers for Counter-Strike: Source, offering a free service supported by optional paid premium packages. The service is aimed at players worldwide, with servers in Europe and the USA. Over the years, the platform has seen millions of players and active participation, including extensive use on platforms like YouTube.

The domain <c2play.com> was initially occupied by a third party but later registered by the Respondent after it became available. For nearly a decade, the domain was parked and offered for sale without significant use. In 2024, the Respondent contacted the Complainant under a possibly fake identity, claiming the domain was for sale and mentioning discussions with potential buyers. However, the domain had not been in active use for years. The Complainant attempted to negotiate a purchase but was met with resistance and a demand for $3,500 for the domain, which the Complainant refused, offering $1,000 instead.

Despite repeated attempts to resolve the matter amicably, including offers for domain purchase via the GoDaddy platform, the Respondent rejected the offers. The Complainant was unable to obtain the Respondent’s identity and address due to WHOIS protection and aggressive responses from the Respondent. As a result, the Complainant initiated UDRP proceedings, as legal action was not possible without a summonable address.

The Respondent operates MarkaAdres, a domain trading company established for buying and selling domain names. The company

specializes in brandable domains, which are popular and generic terms often used for various online ventures. In the domain trading industry, major players such as HugeDomains and NameFind hold large portfolios, and marketplaces like <Sedo.com> and <Afternic.com> facilitate domain transactions globally. The Respondent's company follows the practice of buying and selling domains, including those containing popular terms like "2Play" and "ToPlay," which are commonly used for gaming and entertainment websites.

The Respondent purchased the domain <C2Play.com> in 2017, aware that it had been previously registered by another party but was not in active use. The Respondent argues that the domain name is generic and not associated with the Complainant's business, as the Complainant had chosen the name "C2Play" despite the domain being registered by someone else. The Respondent cites several other domains with similar naming conventions, such as <O2Play.com> and <Songs2Play.com>, which have been registered and sold by various domain investors. Additionally, the Respondent claims that <C2Play.com> was parked for sale, with little traffic or visibility, making it unlikely to cause confusion with the Complainant's service.

The Respondent disputes any allegations of trademark infringement, emphasizing that the Complainant's choice to use the name "C2Play" was made despite the domain's prior registration. Furthermore, the Respondent argues that the Complainant had contacted them multiple times, offering low prices for the domain, which were rejected. The Respondent also highlights that the Complainant did not register a global trademark for "C2Play" and accuses the Complainant of attempting Reverse Domain Name Hijacking (RDNH), claiming that the Complainant's actions are part of a planned attempt to acquire the domain without paying its true market value.

In conclusion, the Respondent asserts that they have acted within legal bounds, citing the lack of confusion caused by the parked domain and the prior registration of <C2Play.com> before the Complainant's business was established. The Respondent requests a finding of Reverse Domain Name Hijacking.

PARTIES CONTENTIONS

COMPLAINANT'S CONTENTIONS:

The Complainant argues that the disputed domain name <c2play.com> refers to his unregistered and popular brand used for designation of the video game "Counter-Strike: Source" he is using since December 2010.

Particularly, the Complainant contends that the name "c2Play" is highly popular and widely recognized, based on various statistics and usage data. Since its launch in 2010, the service has been publicly accessible and free, with players able to purchase premium packages since February 2011. In total, 35,038 premium packages have been purchased, with prices ranging from EUR 4.99 to EUR 94.99. These facts are substantiated by payment records and invoice data, with each premium package requiring manual renewal, indicating ongoing user engagement.

The popularity of the platform is further demonstrated by the Complainant by the number of active users, stating that in 2019, there were 1.18 million players and in 2023 there were 1.149 million of users. Over 74 million chat messages have been exchanged across more than 30 game servers since 2013, indicating high activity. According to the Complaint, the heavy usage of specific servers, such as "DEATHMATCH #3" and "US | DUST 2 DEATHMATCH #1," is evidenced by players achieving tens of thousands of in-game kills during a single period.

Furthermore, the Complainant states that a search for "c2play" on YouTube returns results almost exclusively related to the Complainant's game servers, with videos dating back to 2012 which he considered as evidence of the strong reputation and widespread recognition of the "c2Play" name in the gaming community.

The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name <c2play.com>, emphasizing the lack of meaningful use and the history of the disputed domain name being parked or offered for sale.

At the time the Complainant established its service, the disputed domain name was presumably already registered by an unrelated third party. According to the Complainant historical records indicate that the disputed domain name was briefly used in 2013 and 2014 as a web blog related to gambling, but this use appears minimal and not indicative of any serious or sustained operation. Registration of the disputed domain name lapsed in 2014, and the Respondent subsequently acquired it, although in view of the Complainant the exact details of this transfer are unclear.

Since the Respondent's acquisition, the disputed domain name has not been actively used. Instead, it has been parked or explicitly offered for sale. Initially, it displayed a standard hosting page, and later, it included a message indicating it was available for purchase. In subsequent years, the disputed domain name showed no signs of development or active content and was instead listed for sale or returned error messages when accessed.

The Complainant states that the Respondent's registration and use of the disputed domain name <c2play.com> were made in bad faith. First, the domain has been parked or listed for sale for nearly a decade without any meaningful or active use, which in view of the Complainant suggests the Respondent had no intention to use the domain in good faith. Additionally, the Respondent's communication with the Complainant, which was presumably done under a false identity, further highlights this lack of transparency and legitimate intention. Furthermore, the Complainant states that in a July 2024, the Respondent falsely claimed there were potential buyers for the disputed domain name, likely to increase pressure on the Complainant to purchase it. However, in view of the Complaint, it is unlikely that such buyers existed, as the disputed domain name remained unsold and merely extended until

September 2024.

Moreover, in October 2024, the domain name was listed for sale at a high price, further suggesting that the Respondent was attempting to profit from the domain without legitimate interest or use. The Complainant also discovered that the domain's WHOIS information was protected by a proxy service, making it difficult to directly contact the Respondent, and the Respondent responded to inquiries with hostility and refusal to cooperate. Despite multiple requests, the Respondent refused to provide his full name and address, complicating the possibility of pursuing legal action.

Ultimately, the Complainant offered the Respondent certain price for the sale of the disputed domain name, but the Respondent rejected the offer and insisted on a much higher sum.

The Complainant is convinced that unclear acquisition of the disputed domain name by the Respondent, refusal to negotiate in good faith, alongside the refusal to provide any identifying information, points to bad faith registration and use. In this regard, the Complainant's points out the efforts to resolve the matter amicably which were presumably thwarted by the Respondent's obstructive behaviour.

RESPONDENT'S CONTENTIONS:

As far the similarity test concerns, the Respondent points out that domains containing the terms "2Play" or "ToPlay" are widely used and considered generic, with many such domains being registered by other domain investors. The Respondent also notes that the term "C2Play" is not unique to the Complainant, as similar domains like <O2Play.com> and <Songs2Play.com> exist and are part of a larger market of domain names with similar structures.

The Respondent further emphasizes that the domain <C2Play.com> predates the Complainant's business, as the domain was registered before the Complainant's company was founded in 2010. Moreover, the Respondent argues that the Complainant was aware of the disputed domain name's existence when choosing to use the "C2Play" name but proceeded without taking steps to resolve any potential domain conflicts.

As far the bad faith registration and use, the Respondent asserts that the disputed domain name <C2Play.com> was purchased in good faith as part of their long-standing business in buying and selling domains, which they argue is a common and legitimate practice. Furthermore, the Respondent claims that the Complainant contacted them multiple times between 2017 and 2024 to purchase the disputed domain name, but the Respondent refused to sell at the price the Complainant offered, which it sees as a standard negotiation process.

Regarding the Complainant's claim of bad faith, the Respondent defends its actions also by stating that the disputed domain name was parked and not actively used for commercial purposes. They assert that the disputed domain name has very little traffic and does not cause any confusion among users, especially given the Complainant's own statistics showing millions of players visiting their site. The Respondent also rejects the Complainant's accusations of bad faith, particularly regarding the email from "Michael Hoffmann", whom the Respondent believes to be a fictitious persona created by the Complainant. Finally, the Respondent alleges that the Complainant is attempting to engage in reverse domain name hijacking, particularly by attempting to force a domain transfer through UDRP after failed negotiations. The Respondent believes that the Complainant is leveraging the UDRP process to secure the domain at a reduced cost, despite having known about its existence long before launching their business.

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

Under the UDRP rules, the deadlines for submission of the Complaint and the Respondent are indeed concentrated, and additional submissions, such as a reply to the response or supplementary legal submissions, are generally not considered unless explicitly allowed by the Panel. The UDRP procedures aim to ensure efficiency and fairness by establishing clear timelines and limiting further exchanges between the parties after the initial complaint and response.

In this case, since the submissions from the Complainant on December 1, 2024, the Response to the Complainant's response on December 4, 2024, and the supplementary legal submission from the Complainant on December 7, 2024, fall outside the regular timeframe set for the complaint and the response, and considering that the initial arguments of the parties, supported by the evidence, provide a clear picture of the case, the Panel will disregard these submissions in accordance with the UDRP policy's principles of speed and cost-effectiveness.

In the remaining, 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

With reference to the UDRP three-part cumulative test, the Panel finds that:

1. Identity or Confusing Similarity to a Trademark or Service Mark in Which the Complainant Has Rights

Under the UDRP Policy, the first requirement is that the domain name must be identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The fact that the Complainant has not registered the name “c2play” as a trademark, raise two key questions: (i) whether the Policy applies to unregistered trademarks, and (ii) whether the term “c2play” has acquired sufficient distinctiveness through the use to identify the Complainant and the services he provides.

Regarding the first question, it is well-established and accepted practice that paragraph 4(a)(i) of the Policy refers simply to a “trademark or service mark” in which the complainant has rights, without explicitly limiting the Policy's application to registered trademarks.

Accordingly, in the Panel’s view, the absence of a registered trademark or service mark for “c2play” does not, in itself, preclude a finding that the Complainant has established rights in this name for the purposes of the Rules. A fundamental principle of trademark law is that rights in a trademark can be acquired through use, even if the trademark is not registered.

In this regard, based on the evidence submitted (Server List), the Complainant has demonstrated that the name “c2play” is being used in the EU and the US in connection with game server services for entertainment purposes, indicating a substantial geographical scope of use. This is further supported by screenshots of EU and US servers showing considerable numbers of usage by the game players. In the Panel’s opinion, this evidence shows that the name “c2play” has a considerable reputation within a specific community of online game players, a fact the Respondent most likely knew when acquiring the disputed domain name.

Although the reputation and use of “c2play” may be limited only to a particular field (online gaming), this is sufficient to establish rights in an unregistered trademark under paragraph 4(a)(i) of the Policy.

Finally, the generic nature of the name “c2play” (e.g., C TO PLAY) does not diminish the Complainant’s rights in connection with the services provided. In fact, even a basic online searches for “c2play” made by the Panel clearly associate the name with the Complainant and his services.

In light of the above, the Panel concludes that the Complainant has sufficiently demonstrated rights in the name “c2play” within the meaning of the Policy in relation to the provision of game server services for a popular multiplayer game.

Given that the disputed domain name is identical to the Complainant’s unregistered trademark and the Panel concludes that there is a likelihood of confusion as required by paragraph 4(a)(i) of the Policy.

2. Lack of Rights or Legitimate Interests in Respect of the disputed domain name

The second requirement under the UDRP Policy is that the Respondent must have no rights or legitimate interests in the domain name.

The Panel finds that the Respondent has failed to establish any legitimate use of the domain name <C2Play.com>. The Respondent has not provided evidence of using the domain name for a bona fide offering of goods or services, nor is there any indication that the Respondent has been commonly known by the domain name. Additionally, there is no evidence that the Respondent has made any genuine, non-commercial use of the domain name.

The Respondent’s actions, including the acquisition and use of the disputed domain name for the purpose of parking it and offering it for sale, do not demonstrate any legitimate interest in the disputed domain name. In fact, the practice of registering and trading domain names without any actual use or business associated with the domain is generally considered a legitimate business under

the Policy, provided it does not infringe upon the rights of trademark holders or target widely used trademarks. Domain name investing or trading, as part of an open market, is recognized as lawful, and the Policy does not interfere with such activities unless there is evidence of bad faith registration and use.

In this case, however, the trademark in question is widely used and clearly associated with the Complainant's services, a fact that can be quickly and easily verified through a basic online search. This widespread use and recognition (even though among a particular group of consumers) could indicate that the Respondent was aware of the Complainant's rights and reputation when acquiring the disputed domain name, potentially supporting a finding of bad faith under the Policy.

The Complainant has also shown that it attempted to resolve the dispute amicably with the Respondent, but the Respondent did not engage in good faith negotiations and instead insisted on an inflated price for the disputed domain name. This conduct, in light of the other circumstances indicating recognition of the domain name <C2Play.com> among the relevant public, supports the conclusion that the Respondent rather lacks rights or legitimate interests in the disputed domain name.

3. Registration and Use in Bad Faith

The third and final requirement under the UDRP policy is that the domain name must have been registered and is being used in bad faith.

The Panel finds that the Respondent's actions demonstrate bad faith under the Policy. Specifically, the Respondent does not show to have possibly other legitimate intentions by registering the domain name <C2Play.com> other than profiting from the Complainant's reputation associated with the name "C2Play." Furthermore, the Respondent's conduct of selling the disputed domain name for a significant price, especially given the disputed domain name's lack of actual use or legitimate business purpose, also supports the conclusion that the domain was registered primarily for the purpose of resale for a profit.

Further, the Respondent's actions in contacting the Complainant under a false identity (as "Michael Hoffmann") in an apparent attempt to exert pressure on the Complainant, coupled with the failure to provide accurate and requested contact information, constitutes additional evidence of bad faith under the Policy. Notably, although the Respondent disputed the Complainant's allegations, in view of the Panel, they did not provide sufficient evidence to rebut this conclusion.

Conclusion

In light of the above, the Panel concludes that the Complainant has successfully proven all three elements under the UDRP Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **c2play.com**: Transferred

PANELLISTS

Name	**Hana Císlerová**

DATE OF PANEL DECISION 2024-12-18

Publish the Decision