Decision for dispute CAC-UDRP-106970

Case number	CAC-UDRP-106970
Time of filing	2024-11-05 09:11:47
Domain names	carglasstech.com

Case administrator

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

Complainant

Organization	Belron International Limited

Complainant representative

Organization	HSS IPM GmbH

Respondent

Name	Ba Dembo Baldeh

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 submitted evidence that it is the registered owner of the following trademark registrations:

- European Union trademark No. 001997097 for CARGLASS logo, registered on 18 February 2003;
- European Union trademark No. 015205578 for CARGLASS logo, registered on 27 July 2016;
- UAE trademark No. 247297 for CARGLASS, registered on 29 September 2016;
- Swiss trademark No. 812014 for CARGLASS logo, registered on 22 March 2024;
- Benelux trademark No. 461610 for CARGLASS, registered on 25 May 1989; and
- Danish trademark No. VR 2015 02289 for CARGLASS, registered on 5 October 2015.

FACTUAL BACKGROUND

The Complainant is part of the Belron Group, a worldwide leader in vehicle glass repair and replacement. It operates in

approximately 40 countries across six continents and has around 30,000 employees.

The Complainant owns and operates under several brands, including CARGLASS (used in continental Europe, Africa, South America, and the Middle East), AUTOGLASS (UK, Ireland, Poland) and SAFELITE (United States).

The disputed domain name was registered on 23 March 2024. Initially, it resolved to a website claiming to be part of "Carglass Sweden" and featuring an image copied from the Complainant's social media. After receiving the Complainant's cease and desist letter dated 16 September 2024, the Respondent modified the website to remove direct references to Carglass Sweden and the respective image.

The Registrar confirmed that the Respondent is the current registrant of the disputed domain name and that the language of the registration agreement is English.

The Respondent has not filed a Response.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

The Complainant contends that:

A. The disputed domain name is confusingly similar to its CARGLASS trademark, with the mere addition of the generic term "tech". The Complainant also submitted arguments and evidence supporting the distinctiveness of its CARGLASS trademark and the fact that the term “carglass” is not commonly used in the English language.

B. The Respondent has no rights or legitimate interests in the domain name, as it has not been licensed or authorized to use the CARGLASS mark by the Complainant. The disputed domain name is not being used in connection with a bona fide offering of goods or services, especially given that the Respondent must have been aware of the Complaint and even made reference to “Carglass Sweden”, thereby leveraging the Complainant’s reputation and creating a misleading impression of association with the Complainant. The Complainant also points to the fact that the Respondent is not commonly known by the disputed domain name and that there is no evidence of legitimate, non-commercial or otherwise fair use of the disputed domain name.

C. The domain name was registered and is being used in bad faith to intentionally attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's mark. The Complainant lists several reasons for the finding of bad faith, including: constructive knowledge about the Complainant and its trademark; targeting of the Complainant to generate more traffic to its website; inclusion of a distinctive mark in the sector; misrepresentations as to association with “Carglass Sweden”; use of copyrighted material (photograph) taken from the Complainant’s Swedish Facebook page; mere registration of a domain name that is confusingly similar to a famous or widely known trademark by an unaffiliated entity; and the long time lapse between registration of the Complainant’s trademark and the registration of the disputed domain name.

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

This is a proceeding under Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and the CAC Supplemental Rules.

Paragraph 15 of the Rules provides that the Panel shall decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

According to Paragraph 4(a) of the Policy, a complainant must prove each of the following: (i) the 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 domain name; (iii) the domain name has been registered and is being used in bad faith.

1. **Identical or confusingly similar domain name**

The Complainant has demonstrated that it owns the asserted trademark registrations for the word and logo “CARGLASS”, which were (in most cases) registered long before the Respondent registered the disputed domain name. It is well established that a nationally or regionally registered trademark confers on its owner sufficient rights to satisfy the requirement of having trademark rights for standing to file a UDRP case. Therefore, the Panel finds that the Complainant has established such rights.

It is also well established that the generic top-level suffix may be disregarded when considering whether a disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights, as it is a necessary technical requirement of a domain name.

The disputed domain name incorporates the Complainant's CARGLASS trademark in its entirety, with the addition of the term "tech". In view of the Panel, the addition of this descriptive term does not prevent a finding of confusing similarity, particularly as it may be related to technology or technical services offered under the CARGLASS mark.

The Panel, therefore, finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights.

2. **Lack of rights or legitimate interests**

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not in any way connected with the Complainant, nor is it authorized to use the Complainant’s trademark for its commercial activities. In addition, the Respondent is not commonly known by the disputed domain name according to Paragraph 4(c)(ii) of the Policy.

Furthermore, it was demonstrated by evidence submitted by the Complainant that the Respondent used the disputed domain name for a website that falsely claimed to be "part of Carglass Sweden" and copied content from the Complainant's official Facebook page. Such use cannot constitute a bona fide offering of goods or services or legitimate non-commercial fair use. The Respondent's subsequent modification of the website to remove direct references to Carglass Sweden after receiving the cease-and-desist letter demonstrates awareness of the illegitimate nature of the original use. It cannot legitimize the use of the disputed domain name. At the very least, the Respondent continues to take unfair advantage of the Complainant’s renown in the field of vehicle window glass repair and replacement. The Panel believes that the Respondent has been intentionally trying to gain commercial profit from the use and registration of the disputed domain name and trying to benefit from the Complainant’s trademark and reputation.

The Panel, therefore, finds that the Respondent has no rights or legitimate interests in the disputed domain name.

3. **Registration and use of the disputed domain name in bad faith**

The Panel has already found that the disputed domain name is confusingly similar to the Complainant's trademark “CARGLASS”. It is well established that the mere registration of a domain name that is confusingly similar to a trademark by an unaffiliated entity can lead to the presumption of bad faith. In addition, the Panel holds that the Complainant submitted sufficient evidence of several other signs that are indicative of the Respondent's bad faith in registration and use of the disputed domain name, namely:

1. The Complainant’s trademark is widely known in the relevant industry. It would have been easy for the Respondent to find information about the Complainant, its services and brand before registering the disputed domain name. It would be reasonable to infer that the Respondent knew or should have known of the Complainant’s mark at the time of registration.
2. Furthermore, the Respondent's website initially claimed to be "part of Carglass Sweden", contained a direct hyperlink to the Complainant’s official Swedish website and copied content (a photograph) from the Complainant's Facebook page. That demonstrates the Respondent's actual knowledge and full awareness of the Complainant and its rights.

3. After receiving the cease-and-desist letter, the Respondent modified rather than ceased the infringing use, which could be interpreted as an admission of previous bad faith / unlawful use by the Respondent.
4. The oldest trademark registration asserted by the Complainant predates the disputed domain name's registration by more than 20 years. Such a long time gap can also indicate bad faith, as previous UDRP panels held.
5. The Respondent provided seemingly inconsistent information about its location (Gambia vs Dubai) and continued using the Complainant's trademark in social media even after being notified of the Complainant's rights.

To this Panel, it seems very clear that the Respondent had actual knowledge of the Complainant's trademark and that it has attempted to attract Internet users for commercial gain to its own website by use of the Complainant's trademark. There seems no plausible reason for the Respondent to register the disputed domain name in good faith, and the Respondent chose to offer no explanation whatsoever as it has not filed any Response.

Consequently, the Panel finds that the disputed domain name was registered and used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **carglasstech.com**: Transferred

PANELLISTS

Name	**Vojtěch Chloupek**

DATE OF PANEL DECISION 2024-12-27

Publish the Decision