

Decision for dispute CAC-UDRP-107033

Case number **CAC-UDRP-107033**

Time of filing **2024-11-11 14:17:38**

Domain names **canngo.express**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Name **Dr. Can Ansay**

Respondent

Organization **EQUIOM CAPITAL INVEST Sp.zo.o.**

OTHER LEGAL PROCEEDINGS

The Complainant didn't provide any information about any other legal proceedings related to the disputed domain name and explicitly stated, that there are no such proceedings. However, the Respondent noted that there are several competition and trademark disputes before the German courts between the parties (and other persons) concerning the trademark from which the Complainant derives his rights, which he has asserted in connection with the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the word mark "CANNgo", registration number 302024004285, registered by the German Patent and Trademark Office with the application day on April 10, 2024. The Complainant acquired this trademark by transfer from the previous owner, company Wasma Solutions GmbH, on October 23, 2024.

PARTIES CONTENTIONS

FACTS ASSERTED BY THE COMPLAINANT:

The Complainant requested the transfer of the disputed domain name based on the following grounds:

1. *The disputed domain name is identical*, but the Complainant didn't mention the trademark or service mark the disputed domain name is identical to.
2. *The Respondent does not have any rights or legitimate interest in the disputed domain name due to the diversion of consumers, trademark tarnishment and competitor's sites*, but the Complainant didn't add any arguments or details related to the diversion of consumers or the trademark tarnishment or competitor's sites.
3. *The disputed domain name has been registered and is being used in bad faith because of the registration in bad faith, use in bad faith, prior relationship between the parties and pattern of conduct*, but (again) the Complainant didn't provide any arguments or details related to bad faith of the Respondent, prior relationships between the Complainant and the Respondent or the pattern of conduct of the Respondent.

The Complainant further stated, that "*The domain name is used for a website that was created by two employees of the Complainant*

while working as employees of the Complainant on a similar business enterprise. The domain name is an idea from the company of the Complainant for that business".

FACTS ASSERTED BY THE RESPONDENT

The Respondent challenged the Complainant’s claims, arguing that the trademark was applied for and acquired in bad faith, with the intention to obstruct the Respondent’s business activities. The Respondent also asserted priority rights based on its business name "Canngo" and long-standing use of the domain for its telemedical platform, which provided medical cannabis services in Germany.

The Complainant's trademark claim is undermined by allegations of bad-faith registration and acquisition, according to the Respondent. The trademark was originally applied for by a third party with no discernible connection to the relevant industry and later transferred to the Complainant after a court injunction barred the Complainant from using a similar trademark. The Respondent contended that these actions demonstrate a pattern of obstruction and unfair competition, further supported by ongoing legal disputes in German courts over the trademark and related matters.

The Respondent emphasized its legitimate interests in the disputed domain name, citing substantial investments in the platform and its active use since March 2024. It argued that its rights to the business name "Canngo" under German trademark law predate the Complainant's trademark registration. Additionally, the Respondent highlighted extensive media coverage and user engagement with its platform as evidence of its established reputation and market presence.

The Respondent disputed the applicability of the UDRP, asserting that the case did not involve domain squatting or abusive registration. Instead, it characterizes the Complainant’s actions as an attempt to misuse the UDRP mechanism to undermine legitimate business activities. The Respondent proposed the suspension of UDRP proceedings pending the resolution of related legal cases in German courts.

In conclusion, the Respondent maintained that the Complainant has failed to substantiate its claims and that the disputed domain name was neither registered nor used in bad faith. It requested the rejection of the complaint, asserting its priority rights and legitimate interests in the disputed domain name.

COMPLAINANT’S UNSOLICITED SUPPLEMENTAL FILING

The Complainant addressed an unsolicited supplemental filing to the Panel. The Complainant claimed that the Respondent's acquisition of the disputed domain name and subsequent operations were based on actions by former employees who had used company ideas without authorization. These employees allegedly created the disputed domain name after discussing plans for a website called "Cannabis&Go," later renamed "Canngo." The disputed domain name was then transferred through intermediary transactions, which were sham agreements designed to conceal the true origins and avoid profit claims.

A German court has questioned the Respondent's claims regarding the priority of its rights over the trademark. It noted that the Respondent only acquired the disputed domain name in May 2024, well after the trademark’s registration in April 2024. The court also pointed out that bad faith in trademark registration applies to the applicant, not subsequent owners, and that the Respondent failed to provide evidence of bad faith at the time of the trademark application.

The Respondent’s assertion that the trademark was registered by a "front man" of a competitor lacks substantiation. While the Respondent suggests connections between the trademark applicant, a third-party competitor, and the Complainant, it provides no concrete evidence. The court highlighted the lack of proof for any collaboration between the Complainant and its competitor, undermining the Respondent’s argument.

Additionally, the Complainant disputed the legitimacy of the Respondent's reliance on prior use of the disputed domain name by its predecessors. According to Complainant, the Respondent has not demonstrated how it can claim rights derived from the disputed domain name's earlier use or the alleged bad faith of the trademark applicant. The Complainant emphasized the need for further evidence to substantiate the Respondent's claims.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical to a trademark or service mark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Uniform Domain-Name Dispute Resolution Policy (“Policy”).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has not, 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 not, 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

There are two procedural factors to be solved by the Panel.

1. The Complainant addressed an unsolicited Supplemental Filing to the Panel with the reaction to the Respondent's response.

- As stated in the section 4.6 of the WIPO Overview of [WIPO Panel Views on Selected UDRP Questions, Third Edition \("WIPO Overview 3.0"\)](#), paragraph 10 of the Rules for Uniform Domain Name Dispute Resolution Policy ("Rules") vests the panel with the authority to determine the admissibility, relevance, materiality and weight of the evidence, and also to conduct the proceedings with due expedition. Paragraph 12 of the Rules expressly provides that it is for the panel to request, in its sole discretion, any further statements or documents from the parties it may deem necessary to decide the case. Unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel. In all such cases, panels have repeatedly affirmed that the party submitting or requesting to submit an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response (e.g., owing to some "exceptional" circumstance).
- In the present case, the Complainant didn't show the relevance of its Supplemental Filing (and didn't send the previous request to address such filing to the Panel at all) and why he was unable to provide the information contained in this Supplemental Filing in the complaint already. The Supplemental Filing contains the reaction to the Respondent's response with the description of the ordinary court's proceedings and decisions; however, it is up to the Complainant in the first place to inform the Panel in the complaint, that there are such other proceedings. As noted above, the Complainant failed to provide this information to the Panel at all. Neither of the arguments contained in the Supplemental Filing was unforeseeable, and neither is grounded on evidence that was not available to the Complainant when the complaint was filed. Hence, the Panel finds it unnecessary and inappropriate to take into consideration the Complainant's Supplemental Filing.

2. The Complainant didn't provide the evidence in the language of the proceedings.

- The language of the proceedings is English, the Complainant, however, provided the information about its trademark registration in German only.
- Under standard circumstances, the Panel would dismiss such an evidence or request its translation into the language of the proceedings. However, the Panel has been able to review the content of this evidence, and it is evident from the Respondent's response, that the German language has not been an issue for the Respondent as well. Therefore, the Panel accepts this evidence as properly submitted.

The Panel is satisfied that all other 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

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

- i. The domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- ii. The respondent has no rights or legitimate interests in respect of the domain name; and
- iii. The domain name has been registered and is being used in bad faith.

This UDRP proceeding is based on the three equal elements mentioned above that must be fulfilled simultaneously. It is, therefore, necessary for the Complainant not only to prove that the disputed domain name is identical or confusingly similar to a trademark or service mark, but it has to be proved that the respondent has no rights or legitimate interests in respect of the disputed domain name as well and last but not least, that the disputed domain name has been registered and is being used in bad faith.

I. Identical or Confusingly Similar

The Complainant has established the fact that it has valid rights in the German word trademark "CANNgo", registration number 302024004285, registered by the German Patent and Trademark Office with the application day on April 10, 2024.

When the disputed domain name wholly incorporates a Complainant's registered trademark, it is generally sufficient to establish identity or confusing similarity for the purposes of the Policy. See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. D2001-0902.

The only element of the disputed domain name (CANNGO) fully corresponds to the only word element of the Complainant's trademark, while the generic top-level domain ".express" does not change the overall impression of the designation CANNGO as being connected to the Complainant's trademark, because gTLDs are only required for functionality of a domain name. See *Proactiva Medio Ambiente*,

Although the Complainant submitted a very brief complaint in which he presented virtually no arguments regarding the identity of the disputed domain name and its trademark, the Panel was able to assess the identity or confusing similarity from their simple comparison and there are no doubts that the disputed domain name is identical to the Complainant's trademark.

The Panel therefore finds the disputed domain name to be identical to Complainant's trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

The Complainant's lack of arguments and evidence nevertheless affects the assessment of the remaining two elements required by the Policy.

II. Rights or Legitimate Interests

As stated in the [WIPO Overview, 3.0, section 2.1](#), *while the overall burden of proof in UDRP proceedings is on the complainant, it is recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.*

It is, therefore, required that the Complainant should (at least) make out a prima facie case that the Respondent lacks rights or legitimate interests. In this case, however, the Complainant did not present any arguments, why the Respondent has no rights or legitimate interests in respect of the disputed domain name.

It is not sufficient to repeat the text of the second element in the complaint only and contend that *the Respondent does not have any rights or legitimate interest in the disputed domain name*. Even if the Complainant contends, that the lack of rights or legitimate interest follows from *the diversion of consumers, trademark tarnishment and competitor's sites*, it is not sufficient as there is no argument why this applies to this concrete case and to the Respondent.

The Complainant's statement that the idea for the disputed domain name and the associated website was created by its employees lacks any details about the identity of the alleged creators of the disputed domain name and website, their relationship with the Complainant and with the Respondent, the period when the alleged facts took place, does not explain why these facts support a conclusion that the Respondent does not have rights or legitimate interests, and is not supported by any evidence.

It is not the role of the Panel to present the claim on Complainant's behalf, to supplement the grounds of the complaint and to search for appropriate evidence. Given the absence of any substantial claim by the Complainant, the Panel cannot reach any other conclusion than that the Complainant has not, 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).

III. Registered and Used in Bad Faith

The Complainant must prove under paragraph 4(a)(iii) of the Policy that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy lists four alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent:

"(i) circumstances indicating that respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, respondent has intentionally attempted to attract, for commercial gain, Internet users to respondent's web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of respondent's website or location or of a product or service on respondent's website or location".

In its complaint, the Complainant again repeats the text of the third element only by repeating that the disputed domain name *has been registered and is being used in bad faith*. While in the case of the second element the Policy and the jurisprudence requires to make a prima facie case only, in the case of this third element the Policy sets far higher standards when it requires the Complainant to prove the bad faith registration and use.

The Complainant's claims regarding the idea for the disputed domain name and the associated website are again weak and do not explain why these claims support a conclusion that the disputed domain name has been registered and is being used in bad faith.

The Panel must, therefore, itself repeat again that it is not its role to present the claim on Complainant's behalf, supplement the grounds

of the complaint and search for evidence. Given the absence of any arguments and any evidence proving the bad faith registration and use of the disputed domain name, the Panel cannot reach any other conclusion than that the Complainant has not proved that the disputed domain name has been registered and used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

IV. Scope of the Policy

The Policy was adopted to deal as is with the problem of cybersquatting, the registration of domain names identical or confusingly similar to trademarks. The questions under the Policy to be addressed by the panels are relatively simple and straightforward. The proceeding is a summary one, without the benefit of confrontation of witnesses, or even of a hearing. See *Jason Crouch and Virginia McNeill v. Clement Stein*, WIPO Case No. D2005-1201.

In the case present, it is evident, that the dispute brought before this Panel is only one part of the much larger, complex disputes between the parties (and other persons), involving trademark rights, unfair competition issues and copyrights to employees' works. It would be inappropriate to use the Policy to attempt to carve out and resolve the relatively minor, but interconnected, domain name dispute. See *Adaptive Molecular Technologies, Inc. v. Priscilla Woodward & Charles R. Thorton, d/b/a Machines & More*, WIPO Case No. D2000-0006, and *Clinomics Biosciences, Inc. v. Simplicity Software, Inc.*, WIPO Case No. D2001-0823.

Therefore, even if the Panel would not find the complaint insufficient in relation to the second and third elements as mentioned above, it would come to the conclusion that this dispute is beyond the scope of the Policy and that the complaint should be therefore dismissed based on this fact alone.

V. Reverse Domain Name Hijacking

Paragraph 1 of the Rules states: "*Reverse Domain Name Hijacking means using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name.*"

Paragraph 15(e) of the Rules states in part: "*If after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.*"

It follows from the provided trademark registration evidence, that the Complainant's trademark has been applied for registration on April 10, 2024, and the Complainant acquired this trademark by transfer from the previous owner on October 23, 2024. It also follows from this evidence, that the original owner of the trademark was Ronald Biederer, who transferred the trademark to Wasma Solutions on October 14, and Wasma Solutions transferred it to the Complainant in 11 days only. And it also follows from the registrar verification, that the disputed domain name was registered by the Respondent on March 26, 2024. Therefore, the registration of the disputed domain name predates the date when the Complainant acquired the trademark rights as well as the application of the trademark registration itself.

As stated in the [WIPO Overview, 3.0, section 4.16](#), "*reasons articulated by panels for finding Reverse Domain Name Hijacking (RDNH) include: (i) facts which demonstrate that the complainant knew it could not succeed as to any of the required three elements – such as the complainant's lack of relevant trademark rights, clear knowledge of respondent rights or legitimate interests, or clear knowledge of a lack of respondent bad faith (...) such as registration of the disputed domain name well before the complainant acquired trademark rights ...*".

As mentioned above, the disputed domain name has been registered for the Respondent almost 7 months before the Complainant acquired trademark rights and the Respondent therefore could not have been aware that the Complainant has the trademark rights at the moment of the disputed domain name's registration. Besides, the Complainant didn't provide any argument supported by appropriate evidence that the Respondent has been aware of the Complainant's rights to the unregistered trademark.

The Panel, therefore, finds and declares that the Complaint was brought in bad faith, primarily because the Complainant provided an extraordinarily incomplete complaint likely to mislead the Panel, and thus constitutes an abuse of the administrative proceeding, and accordingly that the Complainant attempted Reverse Domain Name Hijacking within the meaning of the Policy.

The Panel finally considers that the Complainant has shown that the disputed domain name is identical to a trademark in which the Complainant has rights but failed to prove that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the disputed domain name has been registered and is being used in bad faith. The Complainant has thus established only the first element of paragraph 4(a) of the Policy and the Complaint is denied. Also, the Panel finds that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding (Reverse Domain Name Hijacking).

The Panel, therefore, orders that the disputed domain name remains with the Respondent.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **cango.express**: Remaining with the Respondent

PANELLISTS

Name	Assen Alexiev
Name	Petr Hostaš
Name	Stephanie Hartung

DATE OF PANEL DECISION 2025-01-13

Publish the Decision