Decision for dispute CAC-UDRP-107214

Case number	CAC-UDRP-107214
Time of filing	2025-01-16 09:22:12
Domain names	rsingh.net, espub.net

Case administrator

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

Complainant

Organization	Denys Scharnweber Akademie GmbH

Complainant representative

Organization	HDMW Rechtsanwälte und Fachanwälte PartG mbB

Respondents

Name	Jose de Oliveira
Name	Jose Alberto

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, Denys Scharnweber Akademie GmbH, claims rights in the name Denys Scharnweber, both as a personal name and as a common law trademark.

FACTUAL BACKGROUND

The Complaint, filed on December 30, 2024, specified as one of three domain names the subject of this proceeding <denysscharnweber.rsingh.net>, and stated, inter alia:

"My client is the rightful owner of the name Denys Scharnweber, which is recognized as a trademark or protected name.

"The subdomain https://denysscharnweber.rsingh.net/ is identical or confusingly similar to my client's name, leading to a likelihood of confusion to his website https://denysscharnweber.com. "

"The unauthorized use of my client's name in the subdomain constitutes a clear violation of his name rights. Under applicable legal

provisions, every individual has the right to protect their name and to prevent unauthorized use by third parties. The use of my client's name without his consent is unlawful and may have legal consequences."

On January 16, 2025, the case administrator notified the Complainant's representative of deficiencies in the Complaint, including:

"Please be aware, that the domain name denysscharnweber.rsingh.net is the so-called third level domain name - the main domain is rsingh.net and a subdomain is added before it.

UDRP cases cannot be conducted against the third level domain names, you must conduct it against the base domain rsingh.net.

Please delete the domain name denysscharnweber.rsingh.net from the Complaint. In accordance with Paragraph 4 (d) of the Rules, you are requested to correct the above-mentioned deficiencies and submit an amended Complaint within five (5) days of receiving this notification."

The Amended Complaint, filed on January 30, 2025, specified the two domain names <rsingh.net> and <espub.net> as the subject of this proceeding.

PARTIES CONTENTIONS

Despite the Amended Complaint specifying the domain names <rsingh.net> and <espub.net> as the subject of this proceeding, the Amended Complaint stated:

"This complaint is hereby submitted against the domain https://denysscharnweber.rsingh.net/ under the CAC-UDRP (Czech Arbitration Court - Uniform Domain Name Dispute Resolution Policy). The complaint is based on the violation of my client's name rights and intellectual property through the use of his name in the subdomain and the unauthorized use of images and videos of him."

The Response says:

"Regarding the administrative process initiated against my domain, as notified by Denys Scharnweber Akademie GmbH (Denys Scharnweber), I would like to inform you that I have taken the necessary corrective actions as soon as I became aware of the dispute and the potential unauthorized use of the name.

I would like to clarify that, at the time of creating the subdomain, I was not aware that the name Denys Scharnweber was protected by trademark rights. Upon receiving notification of the dispute, I immediately removed the subdomain in question, along with the related content, and took steps to ensure that the name is no longer used in any context on my domain.

Additionally, I have removed the Google Ads campaign that was running and that might have potentially associated the complainant's name with my domain. Furthermore, I would like to emphasize that I will no longer promote any digital products related to Denys Scharnweber Akademie GmbH through Digistore24, in order to avoid any misunderstandings or possible trademark infringements in the future.

I would like to highlight that my actions were motivated by good faith and a commitment to resolving the situation amicably and in compliance with the established rules. At no point was there any intent to infringe upon the intellectual property rights of Denys Scharnweber Akademie GmbH.

Therefore, I respectfully request the favorable closure of this dispute, as I believe that the necessary corrective measures have been taken and the use of the name has been promptly ceased."

RIGHTS

The Complainant has failed to show, to the satisfaction of the Panel, either of the disputed domain names to be 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

In light of the Panel's finding above, it is unnecessary to consider whether the Complainant has 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

In light of the Panel's finding above, it is unnecessary to consider whether the Complainant has 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.

Paragraph 3(c) of the Rules provides that a “complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder”.

The Panel notes that there is only one Respondent in this case. The domain name <rsingh.net> was registered by the Respondent in the name Jose de Oliviera and the domain name <espub.net> was registered by the Respondent in the name Jose Alberto, Alberto being the middle name of Jose de Oliviera. Accordingly, it is unnecessary to order consolidation in this case.

PRINCIPAL REASONS FOR THE DECISION

Paragraph 15(a) of the UDRP Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that a complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

(i) the domain name registered by the respondent 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.

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 1.7.

The Panel finds that neither of the <rsingh.net> and <espub.net> domain names is identical or confusingly similar to the Complainant's claimed name and trademark "Denys Scharnweber". No such allegation is made by the Complainant.

The Complainant has failed to establish this element.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **rsingh.net**: Remaining with the Respondent
2. **espub.net**: Remaining with the Respondent

PANELLISTS

Name	**Alan Limbury**

DATE OF PANEL DECISION 2025-03-03

Publish the Decision