Decision for dispute CAC-UDRP-107262

Case number	CAC-UDRP-107262
Time of filing	2025-02-18 13:26:06
Domain names	dransaybewertungen.com, dransay.reviews

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Name	Dr. Can Ansay

Respondent

Name	Kristopher Radam

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

In these proceedings, the Complainant solely relies on the following trademark:

- DR ANSAY, German Trademark Registration No. 30202131339, filed on July 2, 2021, in the name of Dr. Can Ansay (the Complainant).

The Complainant also claims extensive (online) use in the marketplace.

It is worth noting that the Complainant owns several other trademarks in Germany, which have not been cited in these proceedings.

FACTUAL BACKGROUND

According to information provided by the Complainant or traced on its main website, and not refuted by the Respondent, the Complainant is a German-based company that provides specific medical and pharmaceutical services online.

The Complainant owns a small-sized portfolio of trademarks including the wording "DR ANSAY", among which is a German trademark registration dating back to 2021. It also owns a related domain name, <dransay.com>, since May 27, 2021.

The Disputed domain names <DRANSAYBEWERTUNGEN.COM> and <DRANSAY.REVIEWS> were registered on January 16, 2025 by the Respondent, as confirmed by the Registrar.

PARTIES CONTENTIONS

The Panel remarks that the Complaint has not been filed in the usual format of a classic UDRP Complaint. At the same time, the

Panel points out to Rule 10 of the ICANN Rules for Uniform Domain Name Dispute Resolution Policy (“General Powers of the Panel”), which stipulates: (a) The Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules; (b) In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

Therefore, the Panel, within the spirit of fairness and justice, and by using its discretion, will adapt the arguments of the Complainant, as presented in the case file, in a way as to classify them as per the normal threefold test of paragraph 4(a) of the Policy, while also trying to consider the Respondent’s position in a similar manner.

Further, the Panel will not discuss the topic of consolidation, as this is obvious because of the same ownership and apparent common control of the two Disputed domain names. Indeed, the Respondent is the same.

COMPLAINANT

The Complainant seems to contend that the Disputed domain names are confusingly similar to its DR ANSAY trademark, as they fully incorporate this identical trademark. This last element is sufficient to support the finding that the Disputed domain names are confusingly similar to the Complainant's trademark, the word “bewertungen” in one of the two not being sufficient to distinguish them enough from it. As to the gTLDs “.com” and “.reviews”, the Complainant suggests that they should be disregarded, as per the usual practice.

The Complainant seems to maintain that the Respondent lacks rights or legitimate interests in the Disputed domain names because the Complainant is not affiliated with nor has it ever authorised the Respondent to register its trademark as a domain name, the Complainant has never licensed its trademark to the Respondent and the Respondent is not known as the Disputed domain names.

According to the Complainant’s implied assertions, given the distinctiveness and reputation of its DR ANSAY trademark, the Respondent registered the Disputed domain names with full knowledge of the Complainant's trademark in an intentionally designed way with the aim to tarnish its good reputation in the marketplace, and this is evidence of the fact that the Disputed domain names were registered in bad faith.

With respect to use in bad faith, the Complainant points out that the Respondent has attempted to defame and boycott the Complainant, which is considered as a clear indication of bad faith. It is, indeed, impossible to conceive any actual or contemplated use that would not be illegitimate.

For all these reasons, the Complainant concludes that the Respondent registered and used the Disputed domain names in bad faith.

RESPONDENT

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Disputed domain names are 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 names consist of the Complainant's whole registered trademark (“DR ANSAY”), one of them followed by the descriptive German word “bewertungen” that means “valuations, evaluations, assessments or appraisals”. Indeed, the Disputed domain names are confusingly similar to the trademark of the Complainant.

As far as the gTLDs “.com” and “.reviews” are concerned, it is generally recognized that top level domains do not have any bearing in the assessment of identity or confusing similarity, according to paragraph 4(a)(i) of the Policy.

Hence, the Panel is satisfied that the first requirement under the Policy is met.

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 names (within the meaning of paragraph 4(a)(ii) of the Policy).

Since proving a negative fact is almost impossible, panelists in UDRP proceedings have generally agreed that it is sufficient for the Complainant to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name to shift the burden of proof to the Respondent.

In the case at issue, the Complainant basically argued that it had never authorised the Respondent to register the DR ANSAY trademark in a domain name, and that it had never licensed its trademark to the Respondent.

Furthermore, the Disputed domain names seem to resolve to active websites that just defame the Complainant and therefore the Respondent cannot demonstrate any use of the Disputed domain names in connection with a bona fide offering of goods and services or a legitimate non-commercial or fair use of the Disputed domain names.

Finally, there is no other evidence in the case file that could demonstrate that the Respondent has been commonly known by the Disputed domain names.

In view of the foregoing, the Panel is satisfied that the Complainant has established a prima facie case that the Respondent lacks rights and legitimate interests in the Disputed domain names. In order to rebut the Complainant's arguments, the Respondent had the possibility to make his own defense. However, the Respondent has chosen not to file a Response.

Therefore the Panel is satisfied that also the second requirement under the Policy is met.

BAD FAITH

The Complainant has not, to the satisfaction of the Panel, 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).

As far as registration in bad faith is concerned, given the alleged reputation in Germany of the Complainant's trademark in the field of the health industry and the fact that the Disputed domain names fully incorporate this trademark, it would normally be acceptable to this Panel that, at the time of the registration of the Disputed domain names, the Respondent was well aware of the Complainant's trademark. Indeed, as most panels have systematically accepted, the registration of a domain name of a third party's well-known trademark with full knowledge of the fact that the rights over this trademark belong to a third party amounts to registration in bad faith.

However, in the present matter, the Complainant has not provided sufficient evidence to prove that, the Respondent was in any way aware of the Complainant’s trademark when it had registered the Disputed domain names. As already highlighted, the Complainant is perhaps known in Germany, but the Respondent is located in the Philippines, according to the WhoIs information confirmed by the Registrar. The Complainant does not seem to have any trademark rights in the Philippines. Further, the Complainant does not seem to have sales or other use in the Philippines; even the online sales that are available on the Complainant’s website – discovered through the Panel’s individual online research – do not seem to concern the Philippines, the latter not appearing to interest the Complainant, at all.

Hence, with the above in mind, the Panel finds that the Complainant has failed to prove that, at the time of registration of the Disputed domain names, the Respondent had acted in bad faith.

With respect to use in bad faith, the Disputed domain names seem to resolve to websites, where aggressive defamation of the Complainant takes place. For this Panel, such behaviour could amount to use in bad faith, based on the Complainant’s overall assertions. Nevertheless, and even though it seems rather impossible for this Panel to conceive any plausible active use of the Disputed domain names by the Complainant that would be legitimate, the absence of bad faith proof at the time of registration renders such discussion both unnecessary and superfluous.

For all the circumstances mentioned above, the Panel is not satisfied that the third requirement under the Policy is met.

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 Disputed domain names wholly incorporate and are practically identical to the Complainant's trademark, despite the existence of another word in one of the two. The Disputed domain names are therefore confusingly similar to the Complainant's trademark.

The Respondent was not authorised to include the Complainant's trademark in the Disputed domain names, and the Complainant never licensed its trademarks to the Respondent. The Respondent is not using the Disputed domain names in connection with a bona fide offering of goods or services, or a legitimate non-commercial or fair use.

The Respondent had not registered the Disputed domain names in bad faith, as the Complainant has failed to prove this.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **dransaybewertungen.com**: Remaining with the Respondent
2. **dransay.reviews**: Remaining with the Respondent

PANELLISTS

Name	**Sozos-Christos Theodoulou**

DATE OF PANEL DECISION 2025-03-28

Publish the Decision