Decision for dispute CAC-UDRP-107357

Case number	CAC-UDRP-107357
Time of filing	2025-02-26 10:39:55
Domain names	suncitysoftware.com

Case administrator

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

Complainant

Organization	Sun City Software Kft.

Complainant representative

Organization	Siegler Bird & Bird Ugyvedi Iroda

Respondent

Organization	MOANA SOFTWARE MAGYARORSZÁG Kft

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 the holder of Hungarian trademark registered by the HIPO under Reg No 245846 SUN CITY SOFTWARE filed on December 23, 2024 and registered on February 14, 2025.

The Complainant has shown unregistered trademark rights for SUN CITY SOFTWARE. The Panel notes that the evidence provided by the Complainant is limited but strong enough to support a finding of unregistered mark. Indeed, according to WaybackMachine snapshots the Complainant has shown continuous website use since 2010 up to the present time. Likewise, its use by the official Microsoft website enhances its feature as a trademark. Further, the redirection of the disputed domain name to the Respondent´s website is a key factor to acknowledge the mark to have achieved significance as a source of identifier.

FACTUAL BACKGROUND

The Complainant is a consulting and a solution provider using Microsoft Technologies.

The Complainant owns a <suncitysofware.hu> domain name, registered on December 22, 2009, which redirects to its official website.

The disputed domain name was registered on May 23, 2023 and redirects to the Respondents' official website

www.moanasoftware.com, competitor of the Complainant.

The Management Director of the Respondent is a former shareholder of the Complainant who left the Company on May 27, 2020.

PARTIES CONTENTIONS

The Complainant

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

The Complainant suggest that none of the scenarios depicted in paragraph 4(c) of the Policy applies. Besides, the Respondent is a direct competitor of the Complainant since both parties work in the same field.

The Complainant highlights that the Respondent registered the disputed domain name only after the Respondent´s managing partner left the Complainant´s in an attempt to prevent the latter from reflecting the disputed domain name in a corresponding website. Further, the Complainant alleges that the Respondent asked for a price of transfer of 30.000 US dollar.

The Complainant also asserts that the Respondent is trying to disturb its business or to intentionally to attract for commercial gain, internet users to the Respondent´s site.

The Respondent

No administratively compliant Response has been filed.

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

1. Identical or Confusingly Similar

The Complainant has shown rights in respect of SUN CITY SOFTWARE trademark for the purposes of the Policy. From a comparison between the disputed domain name <suncitysoftware.com> and Complainant´s trademark SUN CITY SOFTWARE it seems clear to the Panel that the former is identical to the relevant mark.

The applicable Top Level Domain (‘TLD’) in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element test.
The Panel finds the first element of the Policy has been established.

2. Rights or Legitimate Interest

Paragraph 4(c) of the Policy sets out non-exclusive examples in which the Respondent may establish rights or legitimate interests in the disputed domain name. However, while the burden of proof in UDRP proceedings rests on the complainant, panels have recognized that proving a respondent lack of rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative". Accordingly, panels have established, since the inception of the UDRP, that it is sufficient to raise a prima facie case against the respondent and then the evidential burden of production shifts to the respondent. See CAC-UDRP-106452.

The Panel finds that the circumstances referred in paragraph 4(c) do not apply for the Respondent or, even any other legitimate circumstance which may apply in favor to the Respondent. Indeed, the composition of the disputed domain name supports a finding of impersonation which cannot grant rights or legitimate interests.

By redirecting the disputed domain name to the Respondent´s website, the Panel cannot find legitimate interest since the parties are competitors. These circumstances prevent support a finding of lack of rights or legitimate interest in favour the Respondent.

Besides, the silence of the Respondent, once received the Complaint, has avoided the Panel to assess if any circumstances may oppose to the Complainant´s prima facie showing.

The Panel finds the second element of the Policy has been established.

3. Register and Used in Bad Faith

Noting that bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark, the Panel now looks at the third requirement of the test.

When a former shareholder of the Complainant and currently a direct competitor of the Complainant registered a domain name that matches with Complainant´s trademark rights and business name it is apparent that the Respondent knew about the Complainant. This previous knowledge tantamount to bad faith registration for UDRP purposes.

Under these circumstances, the Panel finds that the Respondent targeted the Complainant either because the mark had achieved significance as a source of identifier in an attempt to attract for commercial gain internet user or, because the Respondent tried to disrupt the business of the Complainant for some means of commercial gain, direct or otherwise.

Accordingly, the Panel cannot find any conceivable good faith use. Thus, the third element of the Policy has been established.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **suncitysoftware.com**: Transferred

PANELLISTS

Name	**Manuel Moreno-Torres**

DATE OF PANEL DECISION 2025-04-01

Publish the Decision