Decision for dispute CAC-UDRP-107217

Case number	CAC-UDRP-107217
Time of filing	2025-04-04 13:37:09
Domain names	gumbalkan.com

Case administrator

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

Complainant

Organization	Flying Wombat s.r.o.

Complainant representative

Name	Mgr. Martin Čajka

Respondent

Organization	Suggestics s. r. o.

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

For purposes of the present UDRP proceeding, the Complainant relies on European Union Trade Mark No. 018099655, GUMBALKAN, registered on 7 November 2019.

FACTUAL BACKGROUND

Founded in 2018, the Complainant is a Czech company that organizes "Gumbalkan", a road rally event characterized by participants traveling across multiple countries in older or unconventional vehicles, focusing on endurance and navigation.

The Complainant is the owner of the trademark GUMBALKAN, the details of which are provided in the "Rights" section above.

The Complainant also owns the domain name <gumbalkan.cz> from which it operates its primary website.

The disputed domain name was registered on 5 May 2022.

From around March 2023 to September 2024, the disputed domain name redirected to a website at "www.rustventure.com", which promoted rally events similar to those organized by the Complainant.

At the time of submission of the Complaint, the disputed domain name resolved to a website that purported to collect old and unused tires for resale, with a view to using the proceeds from sales to support projects and communities in the Balkan region.

PARTIES CONTENTIONS

Complainant

The Complainant asserts rights in the GUMBALKAN trademark. The Complainant submits that the disputed domain name is identical to its trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant states that there is no affiliation between the Parties, nor has the Respondent been authorized to make use of the Complainant's trademark or to register the disputed domain name. The Complainant asserts that the Respondent does not hold any trademark rights or other rights in "gumbalkan" so as to confer rights or legitimate interests in the disputed domain name on the Respondent. The Complainant submits that the disputed domain name, which is identical to the Complainant's trademark, carries a high risk of implied affiliation with the Complainant.

The Complainant submits that the Respondent registered and is using the disputed domain name in bad faith. The Complainant notes that it had previously collaborated with the Respondent on similar projects and that the Respondent was therefore well aware of the Complainant's rights when registering the disputed domain name. The Complainant further notes that the disputed domain name was subject to redirection to the website "www.rustventure.com" for a period of approximately 18 months, and that by using the disputed domain name in such a manner the Respondent sought to derive commercial gain from its unauthorized use of the Complainant's trademark, in bad faith.

The Complainant requests transfer of the disputed domain name.

Respondent

The Respondent claims that it had no intention of harming the Complainant's reputation or misusing its trademark. The Respondent states that the disputed domain name was previously redirected to the website "www.rustventure.com", for which the Respondent was providing web and order processing services. The Respondent claims that it was unaware of the Complainant's rights in the GUMBALKAN trademark and was only made aware of it upon being contacted by the Complainant's legal representatives in August 2024. Upon receiving this information, the Respondent promptly informed their client and ceased redirecting the disputed domain name.

The Respondent explains that their client later revealed plans to use the disputed domain name for a fundraising initiative aimed at supporting the Balkan region. The Respondent asserts that the disputed domain name is currently being used for this initiative, with a notice clarifying that it is not affiliated with the Complainant. The Respondent further explains that the name "Gumbalkan" refers to collecting "used tires" ("guma" in Slovak) for the Balkan region.

RIGHTS

The Panel finds that the Complainant has rights in the GUMBALKAN trademark, the registration details of which are provided above. The disputed domain name comprises the Complainant's GUMBALKAN trademark in its entirety, without alteration, under the

generic Top-Level Domain ".com", which may be disregarded for purposes of comparison under the first element. The Panel finds the disputed domain name to be identical to the Complainant's GUMBALKAN trademark.

The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

As noted above, prior to receiving any notice of the present dispute (i.e., notice of the Complainant's rights sent by the Complainant's representatives in August 2024), the disputed domain name redirected to the website of a competing rally organization. The Panel finds that by using the disputed domain name in such a manner the Respondent has likely caused Internet users seeking the Complainant online to be diverted to the website of a competitor. The Panel finds that such use of the disputed domain name does not amount to a bona fide offering of goods or services pursuant to paragraph 4(c)(i) of the Policy.

There is no evidence of the Respondent holding relevant trademark rights in "gumbalkan", nor does the Respondent's name bear any resemblance to the disputed domain name. The Panel finds that the Respondent is not commonly known by the disputed domain name for purposes of paragraph 4(c)(ii) of the Policy.

The Panel further notes that upon receipt of a notice from the Complainant, the Respondent altered its use of the disputed domain name to point to a website that purports to provide fundraising for the Balkan region through the resale of tires. While such use could be framed as noncommercial use of the disputed domain name, the Respondent has not provided any evidence to demonstrate that the disputed domain name is in fact being used for such a purpose, beyond mirroring the conclusory statements that appear on the web page itself. Noting the prolonged redirection of the disputed domain name to the website "www.rustventure.com", the Panel infers that the current use of the disputed domain name is more likely an attempt to evade responsibility under the UDRP than any genuine legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraph 4(c)(iii) of the Policy. The Panel further accepts the Complainant's argument that the disputed domain name, which is identical to the Complainant's trademark, carries a high risk of implied affiliation with the Complainant, further weakening any claims of fair use of the disputed domain name.

In light of the above, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the disputed domain name. The Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel infers from the Respondent's use of the disputed domain name to redirect to the website of a direct competitor of the Complainant, as described above, that the Respondent knew of the Complainant when registering the disputed domain name, and did so with a view to taking advantage of the goodwill and reputation attached to the Complainant's mark. The Panel finds that the disputed domain name was registered in bad faith.

The Panel further finds that by using the disputed domain name to redirect to the website at "www.rustventure.com", the Respondent has intentionally attempted to attract Internet users to the Rust Venture website, for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of that website, in bad faith pursuant to paragraph 4(b)(iv) of the Policy. For completeness, the Panel finds that the Respondent's recent use of the disputed domain name to resolve to a web page that purports to offer fundraising services for the Balkan countries through the resale of old and unused tires lacks credibility. Even if taken at face value, it does not cure the Respondent's bad faith use of the disputed domain name before the Respondent was put on notice of the dispute.

The Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) of the Policy.

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under Policy were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Complainant has established rights in the GUMBALKAN trademark for purposes of the first element of the UDRP. The disputed domain name is identical to the GUMBALKAN trademark.

The Respondent has used the disputed domain name to redirect to the website of a competitor of the Complainant. The Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Respondent registered the disputed domain name in bad faith and has used the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **gumbalkan.com**: Transferred

PANELLISTS

Name	**Jane Seager**

DATE OF PANEL DECISION 2025-06-16

Publish the Decision