Decision for dispute CAC-UDRP-107592

Case number	CAC-UDRP-107592
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Domain names	hiabapp.com

Case administrator

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

Complainant

Organization	Hiab AB

Complainant representative

Organization	Berggren Oy

Respondent

Organization	Bluefish concepts llc

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 has established that it is the owner of the Swedish word trademark for HIAB registered number 106500, registered on June 20, 1963 and a wide range of other international registrations for HIAB (collectively “the HIAB trademark”).

FACTUAL BACKGROUND

The Complainant is a prominent Swedish company engaged in the provision of goods and services relating to cargo and load handling and it has been so engaged since 1944. As well as its aforesaid HIAB trademark, the Complainant has registered the <hiab.app> domain name which it has used in its business to offer its services by way of an internet application. It has come to the Complainant's notice that the Respondent has registered the domain name <hiabapp.com> ("the Disputed Domain Name") which incorporates the HIAB trademark and adds the term “app” and the generic Top Level Domain “.com” to construct the Disputed Domain Name. The Disputed Domain Name thus promotes an alleged "hiab" internet application. The Respondent has then caused the Disputed Domain Name to resolve to a webpage inviting internet users to “(d)ownload the latest version of HIAB“ and thus makes use of the Complainant’s trademark to promote the Respondent's alleged “hiab” internet application. The Complainant maintains that this is inimical to itself and its business as it generates confusion between the Complainant's official and genuine application and the Respondent's alleged "hiab" internet application, is misleading to internet users and gives rise to the potential for the Disputed Domain Name to be used in the future for illegitimate purposes. Accordingly, the Complainant has instituted this

proceeding to have the Disputed Domain Name transferred from the Respondent to the Complainant.

PARTIES CONTENTIONS

A) COMPLAINANT

1. The Complainant is a prominent Swedish company engaged in the provision of goods and services relating to cargo and load handling and it has been so engaged since 1944.

2. The Complainant is the owner of the aforesaid Swedish trademark for HIAB registered number 106500, registered on June 20, 1963 and a wide range of other international registrations for HIAB (collectively “the HIAB trademark”).
3. The Complainant has registered the <hiab.app> domain name, which it has used in its business to offer its goods and services on the internet.

4. The Respondent registered the <hiabapp.com> domain name on November 7, 2023 (“the Disputed Domain Name”).
5. The Respondent has thus asserted that its Disputed Domain Name is invoking the availability of an internet application that it maintains is named the "hiabapp" application.

6. The Respondent has caused the Disputed Domain Name to resolve to a webpage inviting internet users to “(d)ownload the latest version of HIAB" and thus makes use of the Complainant’s trademark to promote its alleged “hiabapp” application.

7. The Disputed Domain Name is confusingly similar to the trademark as it embodies the entire HIAB trademark, adding the term “app” and the generic Top Level Domain “.com” to construct the Disputed Domain Name.

8. The construction of the Disputed Domain Name would thus inculcate in the minds of internet users that it is related to and is invoking the HIAB trademark, making it confusingly similar to that trademark.

9. The Respondent has no rights or legitimate interests in the Disputed Domain Name as:

- the Complainant acquired its trademark rights in the HIAB trademark well prior to the registration of the Disputed Domain Name;

- the Respondent is not affiliated with or related in any way to the Complainant, has not been authorized by it to register or use the Disputed Domain Name and does not carry on any activity or have any business with the Complainant;

- the Respondent is not commonly known by the Disputed Domain Name within the meaning of paragraph 4(c)(ii) of the Policy;
- the Respondent has caused the Disputed Domain Name to resolve to a webpage that invites internet users to download its alleged “hiabapp” application and has thereby used the Disputed Domain Name incorporating as it does the HIAB trademark, to trade on the goodwill and reputation of the Complainant;

- the aforesaid use of the Disputed Domain Name by the Respondent is not a legitimate, non-commercial or fair use thereof within the meaning of paragraph 4(c)(iii) of the Policy; and

- there is no other ground on which it could conceivably be argued that the Respondent has a right or legitimate interest in the Disputed Domain Name.

9. The Respondent has registered and used the Disputed Domain Name in bad faith as:

- the clear intention of the Respondent was to use the Complainant’s famous and highly distinctive HIAB trademark to attract potential users to the Respondent’s website where it was using the HIAB trademark to induce internet users to download the alleged “HIAB” application;

- the necessary implication of that conduct was that internet users would be able to use the application to buy the Complainant’s goods and services or otherwise use it to manage or use those goods and services;

- the foregoing implication was especially so, as the Complainant itself had already devised an application for its services which had brought to the notice of its clientele;

- the potential use of the Respondent’s purported application also carried the danger of downloading malware or other dangerous content which would cause damage to internet users and would also disparage the reputation of the Complainant and its relationship with its customers;

- the Respondent had actual knowledge of the Complainant, its business and trademark at the time it, the Respondent, registered the Disputed Domain Name;
- the Respondent actively sought to conceal its bad faith by using a privacy service to register the Disputed Domain Name;
- the Respondent has sought to disrupt the Complainant's business within the meaning of paragraph 4(b) (iii) of the Policy;
- the Respondent's aforesaid conduct was calculated to and did cause confusion between the Complainant and the Respondent and their respective web presences; and
- all of the acts, facts, matter and circumstances to be established by the evidence will show that the Respondent registered and has used the Disputed Domain Name in bad faith.

Accordingly, the Complainant contends that it will be able to establish all of the elements it must prove under the Policy and that it is entitled to the relief it seeks, namely the transfer of the Disputed Domain Name from the Respondent to the Complainant.

B) 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 the UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Administrative deficiency

By notification dated May 28, 2025 and in accordance with paragraph 4 (b) of the Rules, the CAC notified the Complainant that the Complaint was administratively deficient in that the Complainant had not sufficiently identified the Respondent. The CAC invited the Complainant in that regard to review the Registrar's verification available in the online case file in the form of a non-standard communication regarding the appropriate identification of the Disputed Domain Name holder.

On May 28, 2025, the Complainant filed an Amended Complaint and the CAC determined that the Complaint should be admitted to proceed further in the Administrative Proceeding.

The Panel has reviewed all of the above matters and makes a finding that within the meaning of paragraph 4(b) of the Rules, the administrative deficiencies have been corrected and that this matter has proceeded properly to the Panel in accordance with the Policy and the Rules.

Substantive matters

Paragraph 15 of the Rules provides that the Panel is to decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In that regard, the Panel also notes that the onus is on the Complainant to make out its case and past UDRP panels have consistently said that a complainant must show that all three elements of the Policy have been made out before any order can be made to transfer a domain name.

The Panel therefore turns to discuss the various issues that arise for decision on the facts as they are known.

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.

The Panel will therefore deal with each of these requirements in turn.

1. Identical or Confusingly Similar

The Complainant has adduced evidence which the Panel accepts that it is the registered owner of the following trademark, namely the aforesaid Swedish trademark for HIAB registered number 106500, registered on June 20, 1963, and a wide range of other international registrations for HIAB (collectively “the HIAB trademark”).

The Complainant has thus established its trademark rights and that it has standing to institute this proceeding.

The Panel next finds that the Respondent registered the <hiabapp.com> domain name on November 7, 2023 (“the Disputed Domain Name”).

The Panel finds that the Disputed Domain Name is confusingly similar to the HIAB trademark for the following reasons.

The Disputed Domain Name includes the entirety of the HIAB trademark. The only differences between the Disputed Domain Name and the trademark are that the domain name adds to the trademark the term “app” and the generic Top Level Domain “.com”.

It is well established that when, as in the present case, a domain name includes the entirety of a trademark, it is more likely than not that the Disputed Domain Name is confusingly similar to the relevant trademark because of the prominence of the trademark. That is clearly so in the present case, as the expression “HIAB”, which is the Complainant's trademark, is contained in and is the dominant portion of the Disputed Domain Name; thus, the attention of the internet user would naturally be drawn to the domain name and would inculcate in the mind of the user the notion that it is an official domain name of the Complainant, or a domain name that has been authorized by it, and that it relates to the goods and services offered by the Complainant under the trademark.

The Respondent has also added to the trademark the word "app" which is universally understood to stand for an internet application. This signifies that the Disputed Domain Name relates to the Complainant and its goods and services offered under the trademark, access to which may be obtained via the application in question, and that the goods and services are being offered by the Complainant itself or with its permission.

The Disputed Domain Name also includes the generic Top Level Domain “.com”. This is regularly ignored in making the comparison between a domain name and the relevant trademark, as all domain names must have such an extension, and its presence does not assist in assessing if the domain name is confusingly similar to the trademark or not.

Accordingly, and having applied the foregoing principles, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's HIAB trademark.

The Complainant has thus shown the first of the three elements that it must establish under the Policy.

2. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

But by virtue of paragraph 4(c) of the Policy, it is open to a respondent to establish its rights or legitimate interests in a domain name, among other circumstances, by showing any of the following elements:

(i) before any notice to you [respondent] of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) you [respondent] (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you [respondent] are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Thus, if a respondent proves any of these elements or indeed anything else that shows that it has a right or legitimate interest in the domain name, the complainant will have failed to discharge its onus and the complaint will fail.

It is also well-established that a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests and that if and when such a prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent cannot do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Panel, after considering all of the evidence in the Complaint, finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the Disputed Domain Name on all of the grounds on which it has relied, namely:

- the evidence shows that the Complainant acquired its trademark rights in the HIAB trademark at least as early as June 20, 1963, which was well prior to the registration of the Disputed Domain Name which occurred on November 7, 2023; thus, the Panel finds that the Respondent registered the Disputed Domain Name in all probability because the trademark had already been registered and the Respondent was copying it, which clearly cannot give the Respondent any right or legitimate interest in the Disputed Domain Name;

- the evidence shows that the Respondent is not affiliated with or related in any way to the Complainant, has not been authorized by it to register or use the Disputed Domain Name and does not carry on any activity or have any business with the Complainant; thus, it could not be said that the Disputed Domain Name was registered or used with any sort of consent by the Complainant and the Complainant has in any event expressly denied that any such consent was ever given;
- the Respondent is not commonly known by the Disputed Domain Name within the meaning of paragraph 4(c)(ii) of the Policy; there is no evidence that the Respondent is so known and no evidence that it is known by any name other than its own, which is "Bluefish concepts llc (Martin Dalgaard)";

- the evidence shows that the Respondent has caused the Disputed Domain Name to resolve to a webpage that states “(d)ownload the latest version of HIAB”, which therefore invites internet users to download the alleged “hiabapp” application, and that the Respondent has thereby used the domain name, incorporating as it does the substance of the HIABB trademark, to trade on the goodwill and reputation of the Complainant; moreover, it should be added at this point that the Complainant itself had already registered the Disputed Domain Name <hiabb.app> on March 29, 2018;

- the aforesaid use of the Disputed Domain Name by the Respondent was not a legitimate, non-commercial or fair use thereof within the meaning of paragraph 4(c)(iii) of the Policy; registering a domain name that is clearly a copy of the Complainant's trademark, and without the permission of the Complainant, could not be legitimate, was in all probability being done for a commercial purpose and was not fair, either to the Complainant or to internet users in general as they were thereby being misled; and

- there is no other ground on which it could conceivably be argued that the Respondent has a right or legitimate interest in the Disputed Domain Name; for example, it could not be seriously contended that the Respondent had used the Disputed Domain Name for a bona fide offering of goods or services when it has not been used at all, other than for the aforesaid illegitimate purpose.

The evidence therefore establishes the prima facie case made out by the Complainant.

The Respondent has not filed a Response or made any other response to the claims of the Complainant and is in default. Accordingly, the prima facie case has not been refuted and the Complainant has made out the second of the three elements that it must establish.

3. Registered and Used in Bad Faith

The Complainant must prove on the balance of probabilities both that the Disputed Domain Name was registered in bad faith and that it is being used in bad faith.

Paragraph 4(b) of the Policy sets out four circumstances, any one of which is evidence of the registration and use of a domain name in bad faith, although other circumstances may also be relied on, as the four circumstances are not exclusive. The four specified circumstances are:

(i) circumstances indicating that the 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 the respondent's documented out-of-pocket costs directly related to the domain name; or

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

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website 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 the respondent's website or location or of a product or service on the site or location.

The Panel finds that the Complainant has shown that the Respondent registered and used the Disputed Domain Name in bad faith on all of the grounds relied on, namely:

- the evidence shows that the clear intention of the Respondent was to use the Complainant's famous and highly distinctive HIAB trademark to attract internet users to the Respondent's webpage to induce internet users to download the Respondent's alleged “hiab” application;
- the necessary implication of that conduct of the Respondent was also that internet users would be able to use the application to acquire the Complainant's goods and services or otherwise use it to manage or use those goods and services;
- the foregoing implication was especially so, as the Complainant itself had already devised an official and genuine application for its services which the Complainant had brought to the notice of its clientele and a domain name, <hiab.app>, to emphasize the availability of that application;
- the potential use of the Respondent's purported application carried the danger of downloading malware or other dangerous content which would cause damage to internet users and also disparage the reputation of the Complainant and its relationship with its customers;
- the Respondent had actual knowledge of the Complainant, its business and trademark at the time it, the Respondent, registered the Disputed Domain Name; the Respondent clearly targeted the Complainant, must have known what it was doing and clearly aimed its subterfuge at the Complainant and its potential customers; all of this conduct amounts to bad faith;
- the evidence shows that the Respondent actively sought to conceal its bad faith by using a privacy service to register the Disputed Domain Name, another indicia of bad faith;
- the evidence shows that the Respondent sought to disrupt the Complainant's business within the meaning of paragraph 4(b)(iii) of the Policy, as its modus operandi was clearly designed to reduce the propensity of internet users to use the Complainant's official and genuine application and encourage them to use the Respondent's own alleged and illegitimate application;
- the Respondent's aforesaid conduct was calculated to and did cause confusion between the Complainant and the Respondent and their respective web presences; clearly the Respondent's intention was to suggest falsely that the Respondent was the Complainant or that it was acting with the permission of the Complainant, neither of which was true; and
- all of the acts, facts, matter and circumstances established by the evidence have shown that the Respondent registered and has used the Disputed Domain Name in bad faith.

Finally, in addition and having regard to the totality of the evidence, the Panel finds that, in view of the Respondent's registration of the Disputed Domain Name and its use as shown by the evidence, it registered and used the Disputed Domain Name in bad faith within the generally accepted meaning of that expression.

Accordingly, the Complainant has shown the third of the three elements that it must establish.

The Complainant has therefore proved all three of the required constituent elements under the Policy and is entitled to the relief it seeks.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **hiabapp.com**: Transferred

PANELLISTS

Name	**Neil Brown**

DATE OF PANEL DECISION 2025-06-21

Publish the Decision