Decision for dispute CAC-UDRP-107620

Case number	CAC-UDRP-107620
Time of filing	2025-06-06 09:23:52
Domain names	elfbar600.bayern

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Imiracle (Shenzhen) Technology Co., Ltd.

Respondent

Name	Mustafa Celik

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 evidenced to be the owner of numerous trademark registrations relating to its brand ELFBAR, including, but not limited to, the following:

- word mark ELFBAR, European Union Intellectual Property Office (EUIPO), registration No.: 018365272, registration date: May 19, 2021, status: active.

Also, the Complainant has substantiated to own several domain names relating to its ELFBAR trademark, inter alia, the domain names <elfbar.com> as well as <elfbar.de> which resolve to the Complainant's official websites at e.g. "www.elfbar.com" and "www.elfbar.de", promoting the Complainant's disposable ELFBAR vapes and related products in various geographical regions.

The disputed domain name was registered by the Respondent on January 7, 2025; it resolves to a website at "www.vapechamp.de" which prominently displays the Complainant's ELFBAR trademark and official logo, while offering, inter alia, the Complainant's ELFBAR 600 vapes and related products for online sale, without any reference being made to the Parties' business relationship.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it. Notably, the Complainant asserts that "ELF BAR" is a range of disposable vapes that, despite only being lounged a few years ago, has become one of the most popular brands on the market which has reached thousands of countries and regions across five continents. The Complainant further submits that the disputed domain name is confusingly similar to the Complainant's well-reputed ELF BAR trademark, as it includes all or at least one of the main features of the latter and is likely to cause confusion. Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since: (1) the content of the website to which the disputed domain name resolves is highly relevant to the Complainant's business, and the Respondent did not indicate its relationship with the Complainant in a prominent position on such website, making it difficult for consumers to distinguish; (2) the Respondent is not identified as one of the Complainant's distributors or partners; and (3) the Complainant has never directly or indirectly authorized the Respondent to use its ELF BAR trademark and the corresponding disputed domain name in any way. Finally, the Complainant argues that the Respondent has registered and is using the disputed

domain name in bad faith since: (1) given the Complainant's reputation, the Respondent was aware of the existence of the Complainant's ELF BAR trademark prior to the registration of the disputed domain name; and (2) the website to which the disputed domain name resolves does not accurately and prominently disclose the relationship between the Respondent and the Complainant.

The Respondent, in turn, contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name. Notably, the Respondent claims to have a clear legitimate interest in the disputed domain name as it has invested over one million euros in marketing strategies, including SEO, SEA, and social media advertising which is why the platform under the disputed domain name has established a substantial customer base of over 137,000 regular consumers, validating the disputed domain name's commercial viability and authentic market presence, and the disputed domain name employing the regional TLD ".bayern" was deliberately chosen to enhance localized brand visibility and foster customer engagement distinct from standard type-in domain names. Also, the Respondent rebuts the Complainant's bad faith allegations and provides supportive evidence (e.g. through an affidavit as well as excerpts from WhatsApp chats) that the Respondent has engaged proactively with the Complainant's representatives for many years, underscoring transparency and reaching a mutual understanding that the disputed domain name be used by the Respondent with some sort of consent by the Complainant.

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

See below.

BAD FAITH

See below.

PROCEDURAL FACTORS

See below.

PRINCIPAL REASONS FOR THE DECISION

1. Procedural Issues

First, notwithstanding the fact that, as evidenced by the Registrar's Verification, German is the language of the registration agreement of the disputed domain name, under Paragraph 11 of the Rules, the Panel is free to deviate from the language of the registration agreement depending on the particular circumstances of each case. Here, the Panel recognizes that the Respondent was notified by the CAC Arbitration Center in English and German language about the commencement of proceedings, and filed a late Response on July 14, 2025, which is set up in the English language, too. Against this background, the Panel is willing to accept to lead this proceeding according to the Complainant's request in the world language English, given that the Respondent obviously has no disadvantages arising from doing so and, thus, is still treated equally and fairly within the scope of Paragraph 10(b) of the Rules.

Second, the Panel confirms that it has taken notice of the Response, which was filed only on July 14, 2025, thus well after the deadline to file such Response which had ended on June 30, 2025. Although the UDRP has been designed as a fast-track proceeding which shall take place with due expedition (see paragraph 10(c) of the Rules), the Panel has still decided to accept this delayed Response. Considering the outcome of this proceeding (see below), the Panel is convinced that, in doing so, both Parties were still treated equally, and each Party was given a fair opportunity to present its case (see paragraph 10(b) of the Rules) without any need for further supplemental filings.

2. Substantive Issues

First, the Panel finds that the disputed domain name, <elfbar600.bayenb>, is confusingly similar to the Complainant's ELFBAR trademark, as it incorporates the latter entirely, simply added by the Arabic number "600" (directly pointing to the "Elfbar 600" vape which belongs to the Complainant's product portfolio). Numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, or where at least a dominant feature of the relevant trademark is recognizable therein, the disputed domain name will normally be considered confusingly similar to that trademark. Moreover, it has been held in many UDRP

decisions and has meanwhile become a consensus view among UDRP panels that the mere addition of descriptive or other terms, such as e.g. the Arabic number 600, is not capable of dispelling the confusing similarity arising from such incorporation of the Complainant's ELFBAR trademark in the disputed domain name. Also, UDRP panels agree that the Top Level Domain ("TLD"), here ".bayern", is viewed as a standard registration requirement and, as such, is disregarded under the first element confusing similarity test.

Therefore, the Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

Second, 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, while paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate such rights or legitimate interests.

And third, according to paragraph 4(a)(iii) of the Policy, the Complainant needs to demonstrate that the Respondent has registered and, as a conjunctive requirement, is using the disputed domain name in bad faith, with paragraph 4(b) of the Policy establishing circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith.

Having carefully studied the various submissions made by the Parties, the Panel finds before it a broad picture made up of a variety of issues which range from an alleged case of clear-cut cybersquatting to a kind of sophisticated business relationship build over years in which the Respondent successfully distributed the Complainant's ELFBAR 600 and other products, allegedly supported by the Complainant's own staff members and various business partners in Germany.

In view of these particular circumstances, the Panel considers that the disputed domain name is part of a much wider and more complex dispute that involves typical issues of a more complex business relationship and various other open issues between the Parties, and, therefore, is not taking part in a typical straightforward domain name dispute under the UDRP. In this context, the Panel recalls that the Policy is not designed to adjudicate all types of disputes that relate in any way to domain names, but rather the Policy establishes a streamlined, inexpensive administrative dispute resolution procedure intended only for cases of "abusive cybersquatting" (see e.g. Boku, Inc. v. Phuc To, WIPO Case No. D2023-1338). As such, the UDRP is not an appropriate process to adjudicate such a complex (and most probably not yet fully disclosed) dispute, given that UDRP panels e.g. do not have the powers granted to a competent court to first enlighten and finally resolve disputes, including e.g. witness testimony, disclosure of documents, or other procedural instruments (see: Symphony Holdings Limited v. Jaimie Fuller, Fuller Consultancy F.Z.E., WIPO Case No. D2019-2887, Paradise International General Trading LLC v. Suwanna Mayeux, WIPO Case No. D2023-1569).

Consequently, the Panel considers this dispute brought before it to exceed the typical "cybersquatting" scope of the UDRP and would be more appropriately addressed by a court of competent jurisdiction, or perhaps in mediation. Having said so, this Decision still does not prevent either the Complainant or the Respondent from pursuing this dispute in relation to the specific and obviously yet unanswered question of who should own the disputed domain name in a competent ordinary court proceeding or by means of dispute resolution.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **elfbar600.bayern**: Remaining with the Respondent

PANELLISTS

Name	**Stephanie Hartung**

DATE OF PANEL DECISION 2025-07-16

Publish the Decision