

Decision for dispute CAC-UDRP-107791

Case number CAC-UDRP-107791

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Domain names oniric.com

Case administrator

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

Complainant

Organization ONIRIC STUDIO

Complainant representative

Name Mr Pierre-Yves Thoumsin

Respondent

Name Stanley Pace

Respondent representative

Organization John B. Berryhill 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 is the owner of Belgian trademark ONIRIC (device) no.1438507, registered on June 26, 2021.

FACTUAL BACKGROUND

The Complainant was incorporated on October 15, 2020 and affirms that since then, it provides consulting, infrastructure management, and software development services in the field of information technology under the "Oniric" trade name and company

name.

The Complainant is the owner of the Belgian trademark ONIRIC (device) no.1438507, registered on June 26, 2021.

The disputed domain name redirects to a parking page displaying some sponsored links unrelated to the Complainant's business, along with the message: "The domain <oniric.com> may be for sale."

The disputed domain name <oniric.com> was registered on April 19, 2012.

The disputed domain name predates the Complainant's trademark.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that:

- the disputed domain name <oniric.com> is confusingly similar to the Complainant's ONIRIC trademark
- the Respondent lacks rights or legitimate interests in the disputed domain name, and that
- the Respondent has registered and is using the disputed domain name in bad faith.

In support of these claims, the Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with nor authorized by the Complainant in any way.

Furthermore, the Complainant affirms and documents that the Respondent has a history of registering several infringing domain names and has been found to have made bad faith registrations in previous UDRP cases (e.g. *Pirelli & C. S.p.A. v. Stanley Pace CAC-UDRP-100430*, *Joran Lundh v. PRIVACYDOTLINK Customer 2898984 / Stanley Pace Case No. D2018-1902 et al.*).

In addition, the Complainant affirms that the Respondent has acquired and registered the domain name solely for the purpose of selling or renting it for valuable consideration exceeding the out-of-pocket costs directly related to the domain name, and that the Respondent declined to sell the domain name at the price offered by the Complainant (i.e. USD 1,500). Instead, the Respondent made a counter-offer of USD 88,000.

Lastly, the Complainant points out that the disputed domain name redirects to a parking page offering the disputed domain name for sale, thus demonstrating the bad faith use and registration of the disputed domain name.

RESPONDENT:

The Respondent claims that:

The Complainant has failed to provide any evidence that the disputed domain name was registered and used in bad faith; therefore, this Complaint must be denied. The Respondent has also requested—at least implicitly—that the Panel make a finding of Reverse Domain Name Hijacking by the Complainant.

In support of its claims, the Respondent affirms and provides evidence that it has owned the disputed domain name since April 19, 2012, and that it could not have registered or acquired the domain name in 2012 with the intent to exploit an entity that did not exist at the time.

In support of this thesis, the Respondent quotes *Honey's Place, Inc. v. Stanley Pace WIPO Case No. D2023-2108*: "The fact that the Respondent procured the disputed domain name before the Complainant first used its trademark in commerce undermines the Complainant's assertions that the disputed domain name was registered in bad faith".

The Respondent further contends that it has registered and is using the disputed domain name in good faith.

In support of this, the Respondent points out that, over the years, previous panels have expressly found that the Respondent's business of selling generic and descriptive domain names does not, in itself, constitute bad faith use.

Furthermore, the Respondent claims that it is well established by now that the use of common words and phrases for advertising purposes and the mere offering for sale of dictionary words and geographic terms capable of a wide range of potential meanings and uses, is not itself an illegitimate activity, absent evidence of targeting of a particular mark owner.

The Respondent points out that, although the Complainant conducted some research into prior cases involving the Respondent, it failed to mention those UDRP cases—at least five—in which the complaints were rejected.

Finally, the Respondent claims that this proceeding appears to have been brought as a Plan B and that the Complainant was aware that the Respondent had registered the disputed domain name well before the Complainant's rights came into existence, thus requests a finding of Reverse Domain Name Hijacking.

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

In light of the findings under the third element below, the Panel considers this second element unnecessary. The Panel will, therefore, not examine the requirement under paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Complainant has failed to show, to the satisfaction of the Panel, that 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

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i) – (iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (i) The disputed 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 disputed domain name; and
- (iii) The disputed domain name has been registered and is being used in bad faith.

The disputed domain name is identical to the Complainant's registered trademarks ONIRIC, but for the generic TLD .com. Therefore, the Panel finds the disputed domain name to be confusingly similar to the ONIRIC trademarks in which the Complainant has rights. It should be noted that the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. In fact, it is well established that the Complainant's rights do not need to precede the registration of the disputed domain name when assessing the existence of confusing similarity. The existence of prior rights does, however, have great relevance when assessing the existence of bad faith registration.

In the present case, it is quite clear that the Complainant has satisfied paragraph 4(a)(i) of the Policy, but has failed to show the existence of bad faith registration and use of the disputed domain name.

The fact that the Respondent may have been found to be a serial cybersquatter in other UDRP cases is not sufficient, in the circumstances of this case, to demonstrate to the Panel that the Respondent acted in bad faith when registering the disputed domain name.

In fact, the Respondent registered the disputed domain name well before (i.e. more than 8 years before) the Complainant acquired any rights on the ONIRIC name. Consequently, the Respondent could not have been aware of the registered trademarks of the Complainant or of its very existence, and therefore could not have targeted and/or had in mind the Complainant's trademarks when it registered the disputed domain name.

On the contrary, it appears that the Respondent has acted within the framework of its regular commercial domain business, i.e. to register and to offer domains for money without targeting the Complainant's trademark.

Owing to the above finding, relating to the registration and use in bad faith, there is no need to discuss whether or not the Respondent has rights or legitimate interests in respect of the disputed domain name.

Reverse Domain Name Hijacking.

Although the Respondent did not expressly request a finding of reverse domain name hijacking ("RDNH"), noting the above findings, the Panel will consider whether such a finding is appropriate pursuant to paragraph 15(e) of the Rules.

Paragraph 15(e) of the Rules provides that “if after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking ... the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.” Reverse Domain Name Hijacking (“RDNH”) is defined in paragraph 1 of the Rules as “using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name.”

As also explained in *GWG Holdings, Inc. v. Jeff Burgar, Alberta Hot Rods* WIPO Case No. D2016-1420, the burden of proving a complainant’s bad faith is generally on the respondent and, consequently, the mere lack of success of the complaint is not by itself sufficient grounds for a finding of RDNH. Indeed, even if a complainant were over-optimistic in filing the complaint, that would not by itself necessarily justify a finding of RDNH. What must be shown, as paragraph 1 of the Rules makes plain, is that the Complainant was motivated by bad faith in bringing the complaint. In *Jazeera Space Channel TV Station v. AJ Publishing, aka Aljazeera Publishing*, WIPO Case No. D2005-0309, the majority of the panel stated that: “Allegations of reverse domain name hijacking have been upheld in circumstances where a respondent’s use of a domain name could not, under any fair interpretation of the facts, have constituted bad faith, and where a reasonable investigation would have revealed the weaknesses in any potential complaint under the Policy (see *Goldline International, Inc v. Gold Line*, WIPO Case No. D2000-1151). See also *Deutsche Welle v. DiamondWare Limited*, WIPO Case No. D2000-1202, where an allegation of reverse domain name hijacking was upheld in circumstances where the complainant knew that the respondent used the at-issue domain name as part of a bona fide business, and where the registration date of the at-issue domain name preceded the dates of the complainant’s relevant trademark registrations.”

Applying those principles to the facts of the present case, the Panel’s view is that there are several reasons why a finding of RDNH should be made.

There is a complete absence of evidence or any facts from which an inference could reasonably be drawn that the Respondent registered the disputed domain name to tarnish the ONIRIC trademark of the Complainant, to prevent the Complainant from reflecting its ONIRIC trademark in a corresponding domain name, or for any other improper reason. No inference could be drawn that the Respondent was targeting the Complainant or was minded to do so when it registered the disputed domain name.

This is due to the fact that the Respondent registered the disputed domain name some eight years before the Complainant was incorporated and/or acquired trademark rights to the ONIRIC name, making it impossible for the Respondent to have known of the Complainant or to have been motivated by bad faith towards an as-yet non-existent company when it registered the disputed domain name.

For the above reasons, the Panel finds that there has been RDNH in this case.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **oniric.com** : Remaining with the Respondent

PANELLISTS

Name	Fabrizio Bedarida
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DATE OF PANEL DECISION **2025-08-26**

Publish the Decision
