Decision for dispute CAC-UDRP-108009

Case number	CAC-UDRP-108009
Time of filing	2025-09-30 14:52:12
Domain names	milli-lotto.net

Case administrator

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

Complainant

Organization	Veikkaus Oy

Complainant representative

Organization	Berggren Oy

Respondent

Name	Juha Lehtinen

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 (the "Domain Name").

IDENTIFICATION OF RIGHTS

The Complainant relies upon Finish registered trade mark no 288964 with an application date of 21 March 2025 and with a registration date of 23 June 2025 for "MILLI" as a word mark in classes 9 and 41.

The Complainant also relies upon two Finish registered trade marks that take the form of the word "Lotto" in stylised text combined with a logo which takes the form of a stylised tick, or perhaps letter "V", made up of a combination of triangles. One of those marks is Finish registered trade mark no 288668 with an application date of 26 March 2025 and with a registration date of 5 May 2025, in classes 9, 28 and 41.

FACTUAL BACKGROUND

The Complainant was formed in 2017 by reason of the merger of three betting and gambling entities previously operating in Finland, and is owned by the Finnish state. It is the only company that is entitled to legally offer gambling, betting and lottery operations in Finland. Approximately 40 percent of adult Finns play the Complainant's games and use its betting services weekly.

The Complainant filed the application for its MILLI registered trade mark on 21 March 2025, and on 29 May 2025 an article appeared in the Finnish press publicising that the Complainant would launch a new lottery game on 2 June 2025 under the "Milli" name.

The Domain Name was registered on 30 May 2025. It has been used since registration for a website in Finnish that purports to provide details and information about the Complainant's "Milli" lottery. That website also contains a section with a heading which (translated into English) reads:

"WHILE YOU WAIT FOR THE FOLLOWING RESULTS, CLAIM THESE BENEFITS".

Under this heading are links to two casino websites as part of advertisements for those websites offering, inter alia, various numbers of "free spins".

PARTIES CONTENTIONS

Complaint

The Complainant refers to its business and trade marks and the manner in which the Domain Name has been used. It contends that the website operating from the Domain Name is "in violation of Finnish game of chance legislation". According to the Complainant, the Respondent is using the Domain Name as part of an affiliate marketing scheme, whereby internet users following the links on the website operating from the Domain Name are directed to "illegal gambling websites" and "the owner of the webpage receives compensation for the marketing of the online casino".

The Complainant contends that the Domain Name is "highly similar" to both its MILLI and LOTTO trade marks. It further contends that the circumstances surrounding the registration and use of the Domain Name demonstrate that the Respondent has no rights or legitimate interests in the Domain Name and that the Domain Name was registered and is being used in bad faith.

Response

The Respondent filed a response in these proceedings but did not do so using the appropriate Response form. The significance of this is addressed in the "Procedural Factors" section of this decision below.

In the Response the Respondent denies that the Domain Name is identical or similar to the trade marks in which the Complainant claims rights on the basis that the terms Milli and Lotto are descriptive or generic in the context of lotteries and "the Complainant claimed rights were not fully established at the time of Domain registration".

The Respondent also contends the Domain Name is being used for "a bona fide informational website". This is said to be a "bona fide offering of goods and services within the scope of paragraph 4(c)(i) of the Policy and/or Legitimate Non-Commercial or Fair Use within the scope of paragraph 4(c)(iii) of the Policy.

For these reasons the Respondent claims rights and legitimate interests in the Domain Name and that the Domain Name was not registered or used in bad faith.

The Respondent also claims that:

> "any affiliate links (if present, as captured in the Complainant's Annexes 3 and 4) are incidental, secondary to the informational content, and direct to internationally licensed gaming platforms available to non-Finnish users, without using or referencing Veikkaus marks".

It further denies any illegality contending that the:

> "Finnish Lotteries Act (1047/2001) grants exclusive rights to operate gambling in Finland until January 2027 (when a new licensing model takes effect), but this does not extend to preventing third parties from providing non-commercial information about public lottery results outside Finland."

So far as any links appearing on its website are concerned, it also relies upon the decision in "WIPO Case No. D2004-0784", which it contends supports the proposition that "affiliate use on descriptive domains [is] deemed legitimate if not primarily exploitative".

RIGHTS

The first element of the UDRP is generally considered to constitute a standing or threshold requirement, which essentially requires a complaint to show that it has rights in a mark that is recognisable within the disputed domain name; see section 1.7 WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "WIPO Overview 3.0").

The only sensible reading of the Domain Name is as the terms "Milli" and "Lotto" combined with the ".net" top level domain ("TLD").

The Complainant has demonstrated that it has a Finnish registered trade mark for MILLI as a word mark. This mark is clearly recognisable in the Domain Name. The Respondent contends that this mark is "generic" and "descriptive", and for that reason should be disregarded. However, no explanation is advanced as to why it is "generic" and it is also not clear what point is being made in this respect. It is not contended that the mark is invalid nor, as far as the Panel is aware, has any attempt been made to challenge the registration. Further, the strength or otherwise of a mark is usually a factor that is taken into account when

considering the second and third elements of the Policy (again see section 1.7 of the WIPO Overview 3.0).

The Respondent also contends that this mark, although applied for, had not proceeded to registration at the time the Domain Name was registered. However, this contention fails to take into account that under the Policy the question of whether rights exists is usually assessed at the time that UDRP proceedings are commenced (as to which see section 1.1.4 of the WIPO Overview 3.0). That is not to say that the existence or otherwise of a trade mark at the time of registration of the Domain Name is not relevant under the Policy. It is simply that if and insofar as it is relevant, it is relevant to the assessment of bad faith (as to which see section 3.8.2 of the WIPO Overview 3.0).

It follows that the Panel is satisfied that the Complainant has demonstrated that it holds at least one mark that is "confusingly similar" to the Domain Name as that term is understood under the Policy and made out the requirements of the first element of the Policy.

The Panel is more sympathetic to the Respondent's contentions so far as the claimed LOTTO mark is concerned. The Panel accepts that the term is on its face wholly descriptive and it is notable that the only registered marks that the Complainant relies upon in this respect are ones where that term is combined with a prominent figurative device. The Panel recognises that where marks relied upon comprise a mixture of textual and design elements, many panels have been prepared to find confusing similarity on the basis of the textual elements alone (see section 1.10 of the WIPO Overview 3.0). However, the Panel is not wholly convinced that this is necessarily the right approach when the textual element is prima facie wholly descriptive of the goods or services the subject of the mark (see, for example, the consideration of this issue in Meat and Livestock Commission v. David Pearce aka OTC / The Recipe for BSE,WIPO Case No. D2003-0645). Nevertheless, given the Panel's conclusions in relation to the MILLI mark, it is not necessary to consider this issue any further.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent claims rights and legitimate interests in the Domain Name on the grounds that it is being used for "a bona fide informational website" and that this activity falls within the bona fide offering of goods and services under paragraph 4(c)(i) and/or legitimate non-commercial or fair use under paragraph 4(c)(iii) of the Policy.

The Panel does not accept that the Respondent has rights or legitimate interests under either of these grounds. Even on the assumption that the term "Lotto" is descriptive, the Domain Name comprises the Complainant's MILLI mark combined with a term that describes the Complainant's area of activity under that mark, and the ".net" TLD. As such this is a case where the Domain Name takes a form that inherently misrepresents to internet users that the Domain Name is operated, sponsored or endorsed by the Complainant when that is not the case. The Panel is also satisfied that this is deliberate on the part of the Respondent in the sense that (notwithstanding the Respondent's contention that the term is descriptive) MILLI is being deliberately used in the Domain Name to refer to the Complainant's business and mark.

The holding and use of such a domain name is in the view of the Panel not bona fide, legitimate nor fair for the purposes of the second element of the UDRP (see section 2.5.1 of the WIPO Overview 3.0).

Second, regardless of whether the Domain Name is inherently deceptive, the Panel does not accept that the Respondent's claim that the Domain Name is being used for a non-commercial website. The Respondent does not deny that advertising appears on the website operating from the Domain Name nor does it deny that the Complainant's contentions that the Respondent generates affiliate revenues from that advertising.

Further, and in any event the Panel is satisfied that this is not a case where the advertising is merely incidental. The text used by the Respondent in the body of the website positively and deliberately encourages internet users visiting that website and "while they wait" for results from the MILLI lottery, to claim alleged "benefits" from two online casinos.

Further, the Respondent's contention that these links target global users is clearly false or at least highly misleading given that the website was in Finnish.

In the circumstances, the Panel concludes that a main and most likely the primary reason why the Domain Name has been registered was to take advantage of the reputation of the Complainant's MILLI mark to draw internet users to the website operating from the Domain Name and in order to generate revenues from those links. This again is not a bona fide offering of goods or services and this is also not non-commercial fair use.

For the sake of completeness, the Panel also observes that it did not find the decision in WIPO Case No. D2004-0784 cited by the Respondent of assistance in this matter. That was a case where there were pay-per-click links, but the panel did not consider whether "affiliate use on descriptive domains [was] deemed legitimate". Further, for reasons already given, the Panel does not accept that the Domain Name is "purely descriptive" in any event.

Not only does use for the purposes made of the Domain Name, not provide rights or legitimate interests, it provides positive evidence that no right or legitimate interest exists, and no other right or interest is claimed. The Panel is, therefore, satisfied that the Complainant has made out the requirements of the second element of the Policy.

BAD FAITH

It is clear from the content of the website and the timing of the registration following press coverage that the Respondent was aware of the Complainant's service and likely mark at the time that the Domain Name was registered. For the reasons set out in the context of its assessment of rights and legitimate interests, the Panel is also satisfied that the Respondent's use of the Domain Name falls within the scope of circumstances evidencing bad faith registration and use set out in paragraph 4(b)(iv) of the Policy.

The Panel also rejects the Respondent's contention that the Domain Name cannot have been registered in bad faith because at the time that the Domain Name was registered the Complainant had applied for its MILLI mark. As is recorded in section 3.8.2 of the WIPO Overview:

> "… in certain limited circumstances where the facts of the case establish that the respondent's intent in registering the domain name was to unfairly capitalize on the complainant's nascent (typically as yet unregistered) trademark rights, panels have been prepared to find that the respondent has acted in bad faith.
>
> Such scenarios include registration of a domain name: (i) shortly before or after announcement of a corporate merger, (ii) further to the respondent's insider knowledge (e.g., a former employee), (iii) further to significant media attention (e.g., in connection with a product launch or prominent event), or (iv) following the complainant's filing of a trademark application."

This is a case where the circumstances set out in sub-paragraph (iii) of this section of the Overview apply.

Accordingly, the Panel finds that the registration and use of the Domain Name was in bad faith and that the Complainant has made out the third element of the Policy.

PROCEDURAL FACTORS

The Respondent filed a response in these proceedings but did not do so using the appropriate Response form. As a result, the Czech Arbitration Court ("CAC") first sent a message to the Respondent informing the Respondent that it was necessary to use that form. It then sent a message to the Respondent that the CAC had not received any response and then when the date for providing a Response had passed, provided notification of the Respondent's default.

The requirement on the parties to use particular forms is set out in Article 3 of the CAC's UDRP Supplemental Rules. Non-compliance with the formalities set out in the UDRP Rules and the CAC's Rules is not a trivial matter. So far as the CAC Rules are concerned, compliance with these requirements helps ensure that proceedings are conducted with administrative efficiency, and by using these forms parties are less likely to fail to comply with other important formalities under the UDRP Rules, such as the requirement of a Complainant to identify a court of mutual jurisdiction and the requirement of both parties to certify the truthfulness of their submissions. As a consequence, panels are entitled to and on have on occasion disregarded submissions that are procedurally non-compliant (see for example Boehringer Ingelheim Pharma GmbH & Co. KG v. Whoisguard Protected, Whoisguard, Inc. / ESQUIRE 5, J Gates WIPO Case No. D2015-0978).

In this particular case, the failure to use the correct form does raise an issue of substance. For example, although the Response contains a certificate of truth, it is not in the form required by paragraph 5 (c)(viii) of the UDRP Rules. Nevertheless, when coming to its decision the Panel has taken the Respondent's contentions in the Response into account.

PRINCIPAL REASONS FOR THE DECISION

The Complainant claimed registered trade mark rights in LOTTO and MILLI. The Panel held that the Complainant had registered

trade mark rights in MILLI and as this mark was recognisable in the Domain Name, had made out the requirements of paragraph 4(a)(i) of the Policy.

The Domain Name was registered after the Complainant had applied for the MILLI registered trade mark and the day after press publicity to the effect that the Complainant was going to launch a lottery under the MILLI mark. The Domain Name was then used for a Finnish language website that purported to provide information in relation to the Complainant's lottery but also contained links to two online casinos. These links were not merely incidental advertising as the website contained text that encouraged internet users visiting that website while they waited for results from the MILLI lottery, to go to these online casinos and claim the alleged "benefits" that these casinos provided.

The Panel concluded that the Domain Name was inherently and deliberately deceptive in that it comprised the Complainant's MILLI mark combined with a term that described the Complainant's service together with the <.net> TLD.

Further, the Panel concluded that a main and most likely the primary reason why the Domain Name had been registered was to take advantage of the reputation of the Complainant's MILLI mark to draw internet users to the website operating from the Domain Name and in order to generate revenues from the casino links.

On this basis the Panel held that the Respondent had no rights or legitimate interests in the Domain Name and that the Domain Name had been registered and used in bad faith and that the Complainant had satisfied paragraphs 4(a)(ii) and (iii) of the Policy.

So far as bad faith registration was concerned, it did not matter that the MILLI trade mark had not yet proceeded to registration at the time that the Domain Name was registered since the Domain Name had clearly been registered in order to target likely trade mark rights of the Complainant.

Finally, the Panel observed that the Response was procedurally non-compliant in that contrary to Article 3 of the CAC's UDRP Supplemental Rule, the Respondent had failed to use the necessary form. That non-compliance was not trivial in that it also meant that the Respondent had failed to provide a certificate of truth in the form required by paragraph 5 (c)(viii) of the UDRP Rules. Nevertheless, when coming to its decision the Panel had taken the Respondent's contentions in the Response into account.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **milli-lotto.net**: Transferred

PANELLISTS

Name	**Matthew Harris**
Name	**Barbora Donathová**
Name	**Dominik Eickemeier**

DATE OF PANEL DECISION 2025-12-12

Publish the Decision