Panel Decision for dispute CAC-ADREU-007227

Case number	CAC-ADREU-007227
Time of filing	2016-08-04 17:58:57
Domain names	telelototikrinimas.eu

Case administrator

Lada Válková (Case admin)

Complainant

Organization	UAB Olifeja

Respondent

Organization	Telecommunications Accountant

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

The Panel is not aware of any legal proceedings, which are pending, or decided that relate to the disputed domain name.

FACTUAL BACKGROUND

The Complainant is UAB OLIFEJA, a company organised under the laws of Lithuania which has its registered office in Vilnius, Lithuania.
The Respondent is an individual with her residence in Limburg, the Netherlands.
The Complainant has registered word mark “TELELOTO”, registered on 18 March 2009, figurative mark “TELELOTO” registered on 1 June 1995 and other trademarks. The trademarks are registered for goods and services, among others in classes 28 and 41 of the International Classification of Goods and Services (the Nice Classification). These services include games, gaming and organising lotteries.
The disputed domain name <TELELOTOTIKRINIMAS.EU> was registered on 7 July 2014.
The Complainant organises lotteries TELELOTO and VIKINGU LOTO on its website <https://perku.perlas.lt/lt/index>.
The Respondent operates the website <www.telelototikrinimas.eu>. The website seemingly allows consumers to check their tickets for prize winnings. But the information offered to consumers is in most cases incorrect. The Complainant receives numerous verbal and written complaints from consumers because of that.
On 6 April 2016 the Complainant sent a letter to the Respondent informing her about the registered trademarks TELELOTO and others, about infringements of registered trademarks by the Respondent, and infringements of copyrights regarding computer programs and databases by the Respondent. The Complainant required from the Respondent to stop using the respective trademarks and databases, and to revoke registration of the disputed domain name. The Respondent didn’t reply.
The complaint was filed on 28 June 2016 seeking revocation of the disputed domain name.
The Respondent failed to respond to the complaint.

A. COMPLAINANT

According to the Complainant the disputed domain name is confusingly similar to its trademarks.
Furthermore, the Complainant argues that the disputed domain name was registered in bad faith with intent to attract internet users for commercial gain of the Respondent. Not only is Respondent liable for infringement of exclusive rights of the Complainant, but she is also causing damage to the Complainant by providing wrong information about winners of prizes to consumers (Complainant's customers).

B. RESPONDENT

The Respondent has not filed a response.

DISCUSSION AND FINDINGS

Under Article 21 (1) of the Commission Regulation (EC) No. 874/2004 of 28 April 2004, the Complainant has to establish that the disputed domain name is identical or confusingly similar to a name in respect of which a right is recognised or established by national or Community law, and that it has been registered by its holder without rights or legitimate interest, or that the domain name has been registered or is being used in bad faith.

The Panel finds that the disputed domain name is very similar to the Complainant's registered TELELOTO trademark. The disputed domain name contains additional word "TIKRINIMAS", which means "verification" in Lithuanian language. The disputed domain name therefore contains full trademark, which is registered by the Complainant, with additional generic word, which is in close connection with business activities of the Complainant.

Since the contents of the Respondent's webpage are information about lottery games and prizes organised by the Complainant, the additional word "tikrinimas" (verification) does not prevent the disputed domain name from being confusingly similar to the registered trademark of the Complainant. The Panel therefore finds that the disputed domain name is confusingly similar to the "TELELOTO" trademark, registered by the Complainant.

The Complainant uses the trademark TELELOTO when organising lotteries. The official site for these lotteries is <https://perku.perlas.lt/lt/index>, where consumers (buyers of lottery tickets) can verity the results and, if any, prizes.

The Panel further finds that the Respondent has no rights or legitimate interest in the disputed domain name. According to the information and evidence provided the Complainant has not licensed or otherwise permitted the Respondent to use its trademarks or to register the disputed domain name incorporating its marks. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademarks of the Complainant. The Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. The Complainant has no relationship with The Respondent. In that regard it should be emphasized that the Respondent hasn't responded to the allegations of the Complainant. Therefore the Panel finds the allegations of the Complainant to be accurate, i.e. the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel also finds that the disputed domain name was registered 5 years after the registration of the Complainant's trademark. The Respondent is using registered trademark without permission of the Complainant and offers information, which relate to business activities of the Complainant, without permission of the Complainant. In addition to that information provided are in most cases wrong. The Panel therefore finds that the domain name was registered in bad faith, and has been intentionally used to attract internet users for commercial gain of the Respondent.

Accordingly, the Panel finds that the disputed domain name is a result of speculative and abusive registration pursuant to Article 21 (1) of the Regulation (EC) No. 874/2004.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name TELELOTOTIKRINIMAS.EU be revoked

PANELISTS

Name	**Blaz Mrva**

DATE OF PANEL DECISION 2016-08-04

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: TELELOTOTIKRINIMAS.EU

II. Country of the Complainant: Lithuania, country of the Respondent: the Netherlands

III. Date of registration of the domain name: 7 July 2014.

IV. Rights relied on by the Complainant: (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. word and figurative trademark registered in Lithuania, reg. No. 59473, for the term of 10 years, filed on 20 August 2008, registered on 18 March 2009 in respect of goods and services in classes 9, 16, 25, 28, 35, 38 and 41.

2. word trademark registered in Lithuania, reg. No. 33265, for the term of 18 years, filed on 29 May 1997, registered on 1 June 1999, in respect of goods and services in class 41.

V. Response submitted: No

VI. Domain name is confusingly similar to the protected rights of the Complainant.

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004): No

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: Because the Respondent's web page gives impression that it offers official results of the lottery, which is organised by the Complainant. The information available are not authorised by the Complainant and are in most cases wrong.
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IX. Other substantial facts the Panel considers relevant: /

X. Dispute Result: Revocation of the disputed domain name.

XI. Procedural factors the Panel considers relevant: /