

Panel Decision for dispute CAC-ADREU-008458

Case number **CAC-ADREU-008458**

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Domain names **crreat.eu**

Case administrator

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

Complainant

Organization **Ústav jaderné fyziky AV ČR, v. v. i.**

Complainant representative

Organization **barta.legal s.r.o., advokátní kancelář**

Respondent

Name **Maxim Filippov**

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 relate to the disputed domain name.

FACTUAL BACKGROUND

The Complainant has a research project named "**Research Center of Cosmic Rays and Radiation Events in the Atmosphere**" (hereinafter as "**CRREAT Project**"). The project is commonly referred to by its official short name "**CRREAT**", which is an acronym of "Research Center of Cosmic Rays and Radiation Events in the Atmosphere").

The disputed domain name, <crreat.eu> is identical to the abbreviated name of the CRREAT Project and is well known.

The Complainant seeks the transfer of the disputed domain name to the Complainant.

A. COMPLAINANT

The Complainant is the Nuclear Physics Institute of the Czech Academy of Sciences, public research institution (in Czech: **Ústav jaderné fyziky AV ČR, v. v. i.**).

The Complainant has a research project named "**Research Center of Cosmic Rays and Radiation Events in the Atmosphere**" (hereinafter as "**CRREAT Project**"). The project is commonly referred to by its official short name "**CRREAT**", which is an acronym of "Research Center of Cosmic Rays and Radiation Events in the Atmosphere").

The CRREAT Project addresses so far unanswered questions of detection and dosimetry of ionising radiation both of cosmic and terrestrial origin and is supported by the European Structural and Investment Funds by means of Czech Ministry of Education, Youth and Sports Operational programme research, development and education (project Reg. No. CZ.02.1.01/0.0/0.0/15_003/0000481).

The CRREAT Project commenced in December 2016 and continues to this day, termination of the funded period is expected in 2023.

The sustainability period of the CRREAT project is further 5 years. Therefore, the Complainant will use the denomination "CRREAT" for the CRREAT Project for five more years at minimum.

The denomination "CRREAT" has been used continuously throughout the duration of the project, i.e. since 2016.

The disputed domain name, <crreat.eu> (hereinafter as "Domain name"), identical to the abbreviated name of the CRREAT Project, was registered by a former member of the CRREAT Project team in September 2017, for the purposes of the Complainant. The registration fee was paid by the Complainant.

The Domain name had been in continuous use for the purposes of the Complainant's CRREAT Project until the time its registration was inadvertently lost in September 2022.

A web presentation of the CRREAT Project to both professional and general public was connected with the Domain name. After loss of the Domain name, the web presentation was moved to the Complainant's general website – see <http://www.ujf.cas.cz/en/research-development/large-research-infrastructures-and-centres/crreat/objectives/>.

The Complainant provided evidence that the Domain name previously used by the Complainant for the purposes of the CRREAT Project.

The Domain name was inadvertently allowed to expire due to an administrative mistake on the part of the Complainant and eventually was removed from the domain registry, presumably on September 14, 2022.

Subsequently (on October 25, 2022), the Domain name was registered by the Respondent, an individual using privacy service to cover their identity in the EURid domain register.

Once the Complainant became aware of the loss of the Domain name, a member of CRREAT Project team contacted the Respondent via the privacy service used by the Respondent; in reaction to that, the Complainant was contacted by the Respondent.

The Complainant requested the Respondent to transfer the Domain name to the Complainant. The Respondent replied to the request with an offer to sell the Domain name back. The Respondent invited the Complainant to propose a price for the transfer.

The fact that the Domain name now redirects visitors to explicit content seriously damages the reputation and credibility of the Complainant, CRREAT Project outcomes and research team members.

The Complainant requested EURid to disclose details of the Respondent. In accordance with the information received from EURid, the Respondent has been using fake identity in communication with the Complainant and his real name is Maxim Filippov with an address in Oslo.

The Complainant points out that this person seems to be a known cybersquatter, as many ADR disputes were initiated against him and his domain names in the past and the complainants succeeded.

Due to all the circumstances, the Complainant believes that the Respondent registered the Domain name and is using it without any right or legitimate interest in the denomination "CRREAT" and in bad faith, presumably with the view of financial profit from selling it or from attracting traffic to the Domain name.

The Complainant seeks the transfer of the Domain name to the Complainant.

B. RESPONDENT

The Respondent has not responded to the Complaint.

DISCUSSION AND FINDINGS

In accordance with Article 4 (4) of Regulation (EU) 2019/571 (the "Regulation") and paragraph B11(d)(1) of the Rules, the Complainant, in order to succeed, is required to prove that:

1. The domain name is identical or confusingly similar to a name in respect of which a right is recognised or established by the national law of a Member State and/or European Union law and; either
2. The domain name has been registered by the Respondent without rights or legitimate interest in the name; or
3. The domain name has been registered or is being used in bad faith.

In view of the above, the Complainant's claim can be considered justified if condition (1) and at least one of conditions (2) and (3) are cumulatively fulfilled.

AD 1.

Complainant provided evidence, that CRREAT is a short version of Complainant's project name "Research Center of Cosmic Rays and Radiation Events in the Atmosphere". The CRREAT Project is supported by the European Structural and Investment Funds by means of Ministry of Education, Youth and Sports, Operational programme research, development and education (project Reg. No. CZ.02.1.01/0.0/0.0/15_003/0000481). The project name "Research Center of Cosmic Rays and Radiation Events in the Atmosphere" is an official project identifier. Under Regulation (EU) No. 1303/2013, the Complainant as a beneficiary of financial support from EU funds is obliged to use the project name, to comply with the obligations in the field of information, communication and visibility of support from the funds (as set out in Annex XII to the Regulation (EU) No. 1303/2013).

The shorter version of the official project name "CRREAT" is commonly used in the official project documentation and elsewhere as the project identifier by the Complainant as well as public authorities (e.g. Czech Ministry of Education, Youth and Sports), research partners and both professional and general public.

Grant of the support from the European Structural and Investment Funds by means of Ministry of Education, Youth and Sports therefore should be considered as formal attribution of the CRREAT Project name to the Complainant. This conclusion has already been confirmed by the CAC Panel in ADR dispute case no. CAC-ADREU-008118 (domain name <eurastip.eu>).

The Complainant does not own any registered trademark in the denomination. However, the denomination is protected under the Czech law as an unregistered trademark of the Complainant; the Complainant's project is well known by this name and has acquired rights in the name by its continuous use.

The denomination "CRREAT" should be assessed as a well-known trademark of the Complainant.

Well-known trademarks, even if not registered, enjoy the same protection under the Czech trademark law as registered trademarks recognized by the law in the Czech Republic.

Trademarks protected in the territory of the Czech Republic are listed in Section 2 of Act no. 441/2003 Coll., on Trademarks, as amended (hereinafter as the

“Trademark Act”). The list includes not only Czech national, EU or international trademarks registered with the respective intellectual property office, but also well-known trademarks within the meaning of Paris Convention for the Protection of Industrial Property and Article 16 of the TRIPS Agreement (see Section 2 letter d) of the Trademark Act).

Even unregistered trademarks that are not considered as “well-known” enjoy protection under the Czech law.

In accordance with Section 7 paragraph 1 letter e) of the Trademark Act, a user of an unregistered denomination may successfully prevent subsequent registration of a Czech trademark if the denominations in question are identical or similar and cover identical or similar goods and services and there is a likelihood of confusion on the part of the public; the likelihood of confusion shall be deemed to include the likelihood of association. Rights in such unregistered denomination are acquired through use of the unregistered denomination in the course of commercial relations prior to the filing of the subsequent trademark application.

In accordance with the Trademark Act, a prior unregistered trademark significantly limits the rights of trademark applicants and owners, as it confers on its user the right to prohibit the registration and/or use of a subsequently registered trademark and is protected against existing subsequent trademark registrations.

Unregistered trademarks also enjoy protection under the regulation of unfair competition under Act. no. 89/2012 Coll., the Civil Code, as amended (hereinafter as the “Civil Code”). Unfair competition, as defined by Section 2976 of the Civil Code, is forbidden. Unfair competition includes, inter alia, creating a likelihood of confusion.

The scope of protection of unregistered trademarks under the Czech law is, to a great degree, similar to that of a Czech registered trademark, as the Czech law entitles the user of an unregistered trademark to exclude others from using the unregistered trademark or similar denomination for identical or similar goods or services.

The Complainant has been continually using the denomination CRREAT since 2016 in connection with the CRREAT Project and related activities. As a result, the CRREAT Project is well known to the relevant public both in the Czech Republic and internationally (due to broad and intensive cooperation with researchers and other colleagues from all over the world). The relevant public commonly refers to the Complainant’s project by its short name “CRREAT”. The Complainant therefore acquired the rights to the unregistered trademark “CRREAT” protected under the Czech law.

Further, it is evident that the Complainant’s CRREAT Project has become known by this name years before the Respondent registered the Domain name. The Complainant found no evidence that the Respondent would use the denomination CRREAT prior to registration of the Domain name in any way. Therefore, the Complainant has prior right to the denomination.

The Domain name was previously used by the Complainant, evidence of which can still be found out in publicly available sources (hyperlinks in articles or other resources about the CRREAT Project are still available on the internet and lead to the Domain name). The Complainant still uses the CRREAT denomination as the CRREAT Project identification.

Panel came to conclusion, that the domain name is identical or confusingly similar to a name in respect of which a right is recognised or established by the national law of a Member State and/or European Union law.

AD 2

The Respondent does not use the Domain name to offer goods or services or anything else under the denomination “CRREAT”. None of the websites to which the Complainant was redirected when trying to access the Domain name showed the denomination CRREAT and no other connection with the protected denomination was found. The Respondent does not own any registered trademark in the denomination. The Complainant did not allow the Respondent to use the denomination.

There is no evidence the Respondent makes preparation to use the denomination CRREAT to offer goods or services. There is also no evidence, that the Respondent would be commonly known by the name.

Considering all the above, the Panel is convinced the Respondent has no rights or legitimate interests in respect of the Domain name.

AD 3

Article B11(f) of the ADR Rules contain a demonstrative list of that may be evidence of the registration or use of a domain name in bad faith:

- (1) Circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting or otherwise transferring the domain name to the holder of a name in respect of which a right is recognised or established by national and/or European Union law, or to a public body; or
- (2) The domain name has been registered in order to prevent the holder of a name in respect of which a right is recognised or established by national and/or European Union law, or a public body, from reflecting this name in a corresponding domain name, provided that: (i) the Respondent has engaged in a pattern of such conduct; or (ii) the domain name has not been used in a relevant way for at least two years from the date of registration; or (iii) there are circumstances where, at the time the ADR Proceeding was initiated, the Respondent has declared its intention to use the domain name in respect of which a right is recognised or established by national and/or European Union law or which corresponds to the name of a public body in a relevant way but failed to do so within six months of the day on which the ADR Proceeding was initiated;
- (3) the domain name was registered primarily for the purpose of disrupting the professional activities of a competitor; or
- (4) the domain name was intentionally used to attract Internet users, for commercial gain to the Respondent’s website or other online location, by creating a likelihood of confusion with a name in respect of which a right is recognised or established by national and/or European Union law, or it is a name of a public body, with such likelihood arising as to the source, sponsorship, affiliation or endorsement of the website or location or of a product or service on the website or location of the Respondent; or
- (5) the domain name is a personal name for which no demonstrable link exists between the Respondent and the domain name registered.

The Respondent is an individual using privacy services to cover their identity, with no apparent connection to the denomination “CRREAT”. The Domain name is currently being used only to redirect visitors to various, seemingly random dating, erotic or other explicit porn sites; the website may differ each time a visitor accesses the Domain name. As apparent from the previous case law regarding Maxim Filippov, this seems to be part of his standard cybersquatting scheme. Case decided by the Czech Arbitration Court no. CAC-ADREU-008015 cases decided by WIPO: no. DEU2021-0037, DEU2021-0014, DEU2019-0012, DEU2022-0023.

Given all the circumstances, the Panel is convinced the Domain name was registered by the Respondent primarily for the purpose of selling the Domain name to the Complainant or gaining profit from attracting traffic to certain websites.

The Domain name is used to only redirect visitors to various questionable websites with explicit content.

When contacted by the Complainant regarding the Domain name, the Respondent responded simply with an offer to sell the Domain name, without any further discussion or explanation of reasons why they wish to keep the Domain name. This shows that the Respondent has no real interest in the Domain name.

For all the reasons explained above, the Panel is convinced the Domain name was registered and used by the Respondent in bad faith.

For the foregoing reasons, the Panel has decided to transfer the Domain name <CRREAT.EU> to Complainant.

DECISION

The Complainant provided sufficient evidence that the Domain name is neither held with legitimate interest nor was registered and is being used in good faith. For success in ADR dispute the fulfilment of one of this elements is sufficient for the Panel to grant a required transfer of the Domain name to the Complainant. For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the disputed domain name <CRREAT.EU> be transferred to the Complainant.

PANELISTS

Name	Premysl Libal
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DATE OF PANEL DECISION 2023-03-28

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: CRREAT.EU

II. Country of the Complainant: Czech Republic, country of the Respondent: Norway

III. Date of registration of the domain name: 25 October 2022

IV. Rights relied on by the Complainant (B(11)(f) ADR Rules) on which the Panel based its decision:

7. unregistered trademark: CRREAT

V. Response submitted: No

VI. Domain name is identical/confusingly similar to the protected right/s of the Complainant

VII. Rights or legitimate interests of the Respondent (B(11)(f) ADR Rules):

1. No
2. Why: The Respondent did not present any evidence of such rights or legitimate interest.

VIII. Bad faith of the Respondent (B(11)(e) ADR Rules):

1. Yes
2. Why: -

The domain name was intentionally used to attract internet users, to the Respondents website and to disrupt the business activities of the Complainant, as the domain name has been used to redirect to third party websites

IX. Other substantial facts the Panel considers relevant: -

X. Dispute Result: Transfer of the disputed domain name

XI. Procedural factors the Panel considers relevant: -

XII. Is Complainant eligible? Yes
