# Panel Decision for dispute CAC-ADREU-004269

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| Case number | **CAC-ADREU-004269** |
| Time of filing | **2007-02-15 12:16:36** |
| Domain names | **salomonsports.eu** |

## Case administrator

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| Name | **Tereza Bartošková** |

## Complainant

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| Organization / Name | **SALOMON S.A.** |

## Respondent

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| Organization / Name | **Vinitsia Ltd** |

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

There are no other legal proceedings of which the panel is aware that are pending or decided and that are related to the disputed domain name.

FACTUAL BACKGROUND

The Complainant, Salomon S.A., is a French company acting in the field of sport equipment (particularly all mountain related sports equipment), and widely known among the general public.

Complainant owns rights on SALOMON, in particular in France, as a company name, a commercial name, and as a trademark. It owns among others a French trademark registration over SALOMONSPORTS (in on word), filed on 1st July 1999 to cover services of classes 35 and 38 (this trademark was probably filed for the purpose of domain name registrations, but this issue is of no concern in the present dispute). A copy of this trademark has been submitted to the Panel.

Complainant also owns and uses a number of domain names, such as SALOMONSPORTS.COM, or SALOMONSPORTS.SE (.SE is the top level domain of Sweden, the country of incorporation of the Respondent).

The respondent is a Swedish company, which registered the disputed domain name on April 7, 2006, namely on the first day of the land rush period. The web page SALOMONSPORTS.EU is active: it contains a parking page with links to sport-related web pages.

A. COMPLAINANT

The Complainant argues that:

The Respondent has filed a domain name identical to its trademark SALOMONSPORTS;

The Respondent has no rights or legitimate interest in the domain name. An Internet search does not show any link between the Respondent and the sign SALOMONSPORTS;

The respondent has registered the domain name in bad faith, the very same day when the domain name was first released for public registration. The respondent is engaged in a pattern of such conduct. In addition, the domain name is being used in bad faith, as it diverts users to the web pages of competitors.

Being eligible for registration of a eu. domain name according to the Paragraph 4(2)(b) of regulation (EC) N° 733/2002, the Complainant requests the transfer of the domain name.

B. RESPONDENT

The respondent failed to respond to the Complaint.

DISCUSSION AND FINDINGS

The Panel shall examine the Complaint and issue a decision on the basis of Article 4.2(b) of Regulation (EC) No. 733/2002, articles 10.1, 21 .1 .2 .3, 22.11 of (EC) Regulation N°874/2004, and according to Art 11 of the ADR rules.

In accordance with Article 21.1 of (EC) Regulation No. 874/2004,

“A registered domain name shall be subject to revocation (…), where that name is identical or confusingly similar to a name in respect of which a right is established by national and/or Community law, such as the rights mentioned in Article 10.1, and where it:

(a) has been registered by its holder without rights or legitimate interest in the name; or

(b) has been registered or is being used in bad faith.”

Comparison of signs

The contested domain name is SALOMONSPORTS, and the earlier registered trademark is SALOMONSPORTS (one word). The signs compared are identical, as the top level domain is not taken into consideration.

Registration or use of the domain name in bad faith

For reasons of procedural economy, the Panel will solely assess the possible bad faith of the Respondent in the registration or use of the contested domain name. Indeed, this element is, in itself, sufficient to decide in favour of the Complainant in accordance with Article 21.1 of (EC) Regulation No. 874/2004.

The reasons for a finding of bad faith registration and use are as follows:

Clearly, failing any particular explanation by the Defendant, the Panel can see no reason why anyone, but the Complainant, could be interested in registering and using a domain name such as SALOMONSPORTS, which associates a famous brand in the field of sport equipment, SALOMON (which is inherently distinctive), and the generic term SPORTS. This single fact could, in itself, constitute prima facie evidence of bad faith registration. The Google search carried out by the Complainant on the expression SALOMON SPORTS shows many hits which are directly associated to the Complainant. Therefore, it is reasonable to assume that the Respondent was aware of the existence of Complainants rights, not only on SALOMON SPORTS, but also on SALOMON alone.

This feeling is corroborated by various elements which were brought to the attention of the panel:

Firstly, the Respondent has manifestly engaged in a pattern of registering domain names consisting of third parties’ trademarks. In this respect, the Panel refers to the following ADR decisions issued against the Respondent: Case no. 1412 concerning the domain name NOURKRIN; Case No. 1304 concerning the domain name KEMET; and Case No. 3149 concerning the domain name EDSCHA. Incidentally, the Panel notes that the contested domain name, as well as the above-mentioned domain names, were registered on the very first day of the land rush period.

Secondly, Internet users accessing to the disputed domain name are offered a number of links to other sport-related web pages, through what seems to be a pay-per-click system. In other words, the respondent has registered a domain name which could perfectly be the official webpage of the Complainant, in order to divert users to the web pages of potential competitors.

These conducts amount to bad faith and are mentioned as such in the non exhaustive list contained in Article 21.3 of the Regulation.

Remedies sought:

The Complainant has requested the transfer of the disputed domain name.

In accordance with Article 22.11 of (EC) Regulation No. 874/2004, “the domain name shall be transferred to the complainant if the complainant applies for this domain name and satisfies the general eligibility criteria set out in Article 4.2(b) of Regulation (EC) No. 733/2002 are fulfilled”. The Complainant is a company incorporated in France, as shown in annex 1 of the Complaint (extract from the Companies’ register), is the owner of a trademark registration over the disputed sign, and is therefore allowed to claim the transfer of the domain name SALOMONSPORTS.

DECISION

For all the foregoing reasons, the domain name SALOMONSPORTS shall be transferred to the Complainant.

## PANELISTS

| Name | **Martine Dehaut** |
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DATE OF PANEL DECISION 2007-06-05

## Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complaint is directed against the owner of the domain name SALOMONSPORTS, which is identical to an earlier French registered trademark. The contested domain name was registered in bad faith, as the Respondent has engaged in a pattern of registering domain names strictly identical to trademark rights of third parties. It is also used in bad faith, as Internet users accessing to this web page are offered links to the web pages of potential competitors, also acting in the filed of sports equipment. The disputed domain name is transferred to Complainant.