Panel Decision for dispute CAC-ADREU-008834

Case number	**CAC-ADREU-008834**
Time of filing	**2025-10-20 13:59:35**
Domain names	**tabschocolate.eu**

Case administrator

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

Complainant

Organization	**TABS LABS LLC**

Complainant representative

Organization	**Cognition IP P.C.**

Respondent

Name	**Nauris Birznieks**

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 pending or decided legal proceedings related to the disputed domain name.

FACTUAL BACKGROUND

The Complainant, **TABS LABS LLC**, is a U.S. company that launched the sales of Tabs chocolate product in December 2021.

During the period December 2021- June 2023 there was web traffic from Germany to Complainant's websites, there were 9 orders from customers with billing address in Germany and there were 29 customer IDs associated with unique German user accounts in Complainant's e-commerce system.

Respondent, **Nauris Birznieks**, registered the disputed domain name **<tabschocolate.eu>** June 28, 2023 and is operating a business selling chocolate under the brand "Tabs" within the EU and UK.

Complainant has registered the following trademarks after the registration of the disputed domain name:

International trademark registration "Tabs", No.1817532, registered on February 20, 2024, designated, among others for EU and UK;

US trademark registration "Tabs", No. 7819172, registered on June 3, 2025;

US trademark registration "tt" 7839760, registered on June 24, 2025;

US trademark "tt" 7844469, registered on June 24, 2025.

Respondent has registered the following trademarks after the registration of the disputed domain name:

EU trademark "Tabs" 018977034, filed on January 22, 2024, registered on May 9, 2024;

UK trademark "Tabs" UK00004067958, filed on June 25, 2024, registered on November 29, 2024.

A. COMPLAINANT

Complainant states that the disputed domain name is identical or confusingly similar to a name in respect of which the Complainant holds a right.

The disputed domain name was registered on June 28, 2023, which precedes the registration dates of any of Complainant's registered trademarks. However, Complainant claims that based on its commercial activities in Germany it held enforceable unregistered German trademark rights in the TABS mark prior to June 28, 2023, the registration date of the disputed domain name. These rights constitute "prior rights" under Article 21(1) of the .eu ADR Rules and entitles Complainant to relief.

Complainant further states that the disputed domain name has been registered by the Respondent without rights or legitimate interest.

Complainant held enforceable unregistered German trademark rights in the TT Logo Marks and the BBB Slogan mark prior to registration date of the disputed domain name. Complainant has never authorized of licensed use of any of its trademarks to Respondent. Thus, Respondent has not been making a legitimate and noncommercial or fair use of the disputed domain name without intent to mislead consumers.

Complainant claims that the disputed domain name has been registered or is being used in bad faith as Respondent knowingly used Complainant's TT Logo Marks and BBB Slogan Mark to create a likelihood of confusion. Additionally, Complainant refers to Respondent's e-mail communication as admission of its wilful bad faith conduct.

B. RESPONDENT

The Respondent states that he is the legitimate registrant of the disputed domain name.

Respondent states that he holds prior registered trademark rights in the EU and UK for "TABS", it operates bona fide business in the EU selling chocolate products under that mark and therefore the Respondent therefore has a legitimate interest in the disputed domain name.

Respondent states that the domain was not registered nor used in bad faith.

Respondent states that the Complainant's claims that website traffic and sales in Germany prior to June 2023 created unregistered rights are speculative and weak when weighed against Respondent's registered EU trademark rights.

Respondent claims that the complaint is an abuse of the ADR procedure and requests the Panel to make a finding of Reverse Domain Name Hijacking to deter further harassment.

Respondent states that the quote from e-mail communication was quoted out of the context and it was not an admission of wrongdoing.

DISCUSSION AND FINDINGS

In accordance to Article 4 (4) of Regulation (EU) 2019/517 of the European Parliament and of the Council of 19 March 2019 on the implementation and functioning of the .eu top-level domain name and amending and repealing Regulation (EC) No 733/2002 and repealing Commission Regulation (EC) No 874/2004 (hereinafter referred to as: 'Regulation') a domain name may be revoked, and where necessary subsequently transferred to another party, following an appropriate ADR or judicial procedure, in accordance with the principles and procedures on the functioning of the .eu TLD laid down pursuant to Article 11, where that name is identical or confusingly similar to a name in respect of which a right is established by Union or national law, 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.

It is undisputed between the Parties that the Complainant's registered trademarks were obtained subsequent to the registration of the disputed domain name. The central issue in contention is whether the Complainant's commercial activities before the registration of the domain name gave rise to enforceable rights under German trademark law, such that they may be considered rights established by Union or national law, as the Complainant did not present any consumer surveys, media coverage, or other type of industry recognition, which could have supported the existence of trade significance.

The Panel finds that, notwithstanding the niche nature of the product in question, a limited number of sales per calendar year within the German market combined with modest web traffic to the Complainant's website does not meet the threshold of trade significance (Verkehrsgeltung), which under German trademark law requires substantial recognition. Therefore, the disputed domain name was not identical or confusingly similar to a name in respect of which a right is established by Union or national law and the first condition set forth under Article 4(4) of the Regulation and Paragraph B11(d)(1)(i) of the ADR Rules is not fulfilled and there are no grounds for transferring the domain name.

While the Panel concludes that the Complainant's business activities do not establish trade significance (Verkehrsgeltung) within the meaning of German trademark law, it does not consider the Complaint to constitute an abuse of the ADR procedure. Accordingly, the Panel rejects the Respondent's request for a finding of Reverse Domain Name Hijacking.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the Complaint is Denied.

PANELISTS

Name	**Viive Naslund**

DATE OF PANEL DECISION 2025-10-27

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: **tabschocolate.eu**

II. Country of the Complainant: USA, country of the Respondent: Estonia

III. Date of registration of the domain name: 28 June 2023

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

1. International word trademark, reg. No. 1817532, , registered on 20 February 2024in respect of goods and services in classes 5, 44.
2. Word trademark registered in US, reg. No. 7819172, filed on 16 February 2024, registered on 03 June 2025 in respect of goods and services in classes 044.
3. Word trademark registered in US, reg. No. 7839760, filed on 16 February 2024, registered on 24 June 2025 in respect of goods and services in classes 005.
4. Word trademark registered in US, reg. No. 7844469, filed on 16 February 2024, registered on 24 June 2025 in respect of goods and services in classes 044.
5. Unregistered trademark: unregistered German trademark rights in the TABS mark

V. Response submitted: Yes

VI. Domain name is neither identical nor confusingly similar to the protected right/s of the Complainant

VII. Rights or legitimate interests of the Respondent (B(11)(f) ADR Rules):
1. Yes
2. Why: No indication to the contrary

VIII. Bad faith of the Respondent (B(11)(e) ADR Rules):
1. No
2. Why: No indication to the contrary

IX. Other substantial facts the Panel considers relevant: None

X. Dispute Result: Complaint denied

XI. Procedural factors the Panel considers relevant: None