

Decision for dispute CAC-UDRP-103526

Case number	CAC-UDRP-103526
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Time of filing	2021-01-27 09:45:29
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Domain names	voestalpine-at.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	voestalpine AG
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Complainant representative

Name	Friedrich Jell
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Respondent

Name	Hannah Menzel
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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.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, the proprietor of the International registration 1499567 VOESTALPINE, registered on November 1, 2019 in several classes.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a known worldwide acting steel company. Its history dates back to 1945. In the business year 2019/20, the Complainant generated revenue of EUR 12.7 billion, with an operating result of EUR 1.2 billion. The Complainant has about 49,000 employees worldwide. The related voestalpine AG Group comprises several companies, among them the "voestalpine BÖHLER Bleche GmbH & Co KG".

On March 3, 2020, the Respondent registered the disputed domain name. The Respondent sent fraudulent purchase orders (Fake Buyer) via the email address (beschaffung@voestalpine-at.com) under "voestalpine BÖHLER Bleche GmbH & Co KG" whereas the German word "Beschaffung" means "supply" in English. A website under the disputed domain name shows

sponsored links for steel and the like.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Complainant has established the fact that it has valid trademark rights for Voestalpine. The disputed domain name is confusingly similar to the trademark of the Complainant since it is acknowledged that neither the generic Top-Level Domain ("gTLD") nor a geographical identification such as AT for Austria does have a relevant influence on the similarity of a trademark and a domain name.

The Panel therefore considers the disputed domain name to be confusingly similar to the Voestalpine trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted the Respondent any permission or given its consent to the Respondent to use its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name as, since there is no indication that the Respondent is commonly known by the name "Voestalpine" or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

In the view of the Panel, the Respondent, allegedly with a residence in Austria, must have been aware of the widely known Complainant and its trademarks when registering the disputed domain name. The Complainant has not authorized the Respondent to make use of its trademarks. From the record, the Panel does not see any conceivable legitimate use being made by the Respondent of the disputed domain name.

It is the consensus view of panels (following the decision *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003, <telstra.org>) that the apparent lack of active use of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith. Examples of what may be circumstances found to be indicative of bad faith include that no response to the complaint has been filed. Furthermore, in particular the fraudulent emails under the disputed domain name show bad faith.

These circumstances of this case, indicate that the Respondent registered and uses the disputed domain name primarily with

the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

Accordingly, the Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy) by registering a confusingly similar domain name being aware of the trademarks of the Complainant. The Panel therefore considers the disputed domain name has been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy under the present circumstances.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **VOESTALPINE-AT.COM**: Transferred

PANELLISTS

Name	Dietrich Beier
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DATE OF PANEL DECISION	2021-03-09
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Publish the Decision
