

Decision for dispute CAC-UDRP-103791

Case number	CAC-UDRP-103791
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Time of filing	2021-05-10 09:08:46
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Domain names	HIDGLOBAIS.COM
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	ASSA ABLOY AB
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Complainant representative

Organization	Coöperatieve Vereniging SNB-REACT U.A.
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Respondent

Name	john alvin (and Withheld for Privacy ehf)
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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 owns a number of trade marks consisting of the name HID, including the EU trade mark HID, registration number 001061464, first registered on 7 March 2000, in international class 9; and the US trade mark HID, registration number 85756909, first registered on 22 March 2016, in international class 9. The Complainant also owns a visual EU trade mark with the textual element HID, registration number 012876991, first registered on 9 October 2014, in international classes 9, 16, 42 and 45. The Complainant further owns trade marks consisting of the name HID GLOBAL, including the EU trade mark HID GLOBAL, registration number 005352951, first registered on 14 August 2007, in international class 9; and the US trade mark HID GLOBAL, registration number 78853856, first registered on 21 October 2008, in international class 9. Other panels have in the past found that the HID GLOBAL trade mark has strong reputation and is widely known (see: WIPO Case No. D2018-2027 <hidgiobal.com>) although the Complainant does not adduce any specific evidence as to reputation in the present proceedings.

Furthermore, members of the Complainant's group own a number of top-level and country-level domain names consisting of the name HID GLOBAL, including the domain names <hidglobal.com>, registered on 2 September 2005; <hidglobal.co.uk>, registered on 11 April 2006; <hidglobal.de>, registration date unknown to the Panel; and <hidglobal.se>, registered on 27 June 2013, which are all connected to official HID websites.

FACTUAL BACKGROUND

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The Complainant is ASSA ABLOY AB, the parent company of the ASSA ABLOY group. The ASSA ABLOY group is a global leader in door opening solutions with sales of Swedish kronor 94 billion in 2019. ASSA ABLOY is present in more than 70 countries worldwide and has a market leading position in Europe, North America and the Asia Pacific region, within areas such as mechanical and electromechanical locking, access control, identification technology, entrance automation, security doors, hotel security and mobile access. About 70% of the group's total sales fall under the ASSA ABLOY master brand, while 20 % are under the Yale brand (for home access and security) and HID brand (for identification technology).

The disputed domain name <hidglobals.com> was first registered on 29 October 2020. The disputed domain name currently resolves to a parking page. There is no evidence before the Panel that the disputed domain name has ever been used for an active website since it was registered.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to a trade mark 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 that 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

With regard to the first UDRP element, the Panel finds that the disputed domain name <hidglobals.com> is confusingly similar to the Complainant's trade mark HID GLOBAL. Indeed, the disputed domain name incorporates the Complainant's trade mark in its entirety, save that the disputed domain name adds the letter "S" to the Complainant's trade mark. The Panel considers this case to be a plain case of "typo-squatting", i.e., the disputed domain name contains an obvious misspelling of the Complainant's trade mark, which is not sufficient to alter the overall impression of the designation as being connected to the Complainant's trade mark. The addition of the letter "S" does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trade marks and associated domain names. The Panel follows in this respect the view established by numerous other decisions that a domain name which consists of a common, obvious, or intentional misspelling of a trade mark is to be considered to be confusingly similar to the relevant trade mark (see, for example, CAC Case No. 103124, Boehringer Ingelheim Pharma GmbH & Co.KG v. Fundacion Comercio Electronico <boehringeringelheimpetreebates.com>; CAC Case No. 101990, JCDECAUX SA -v- Emma Purnell <jcdeceux.com>; CAC case No. 101892, JCDECAUX SA -v- Lab-Clean Inc <jcdacaux.com>; and WIPO Case No. D2005-0941, Bayerische Motoren Werke AG, Sauber Motorsport AG v. Petaluma Auto Works <bmwsauberf1.com>).

With regard to the second UDRP element, there is no evidence before the Panel to suggest that the Respondent has made any use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Neither is there any indication that the Respondent is making legitimate non-commercial or fair use of the disputed domain name. Indeed, the disputed domain name is not being used for any active website but resolves to a parking page. A lack

of content at the disputed domain has in itself been regarded by other panels as supporting a finding that the Respondent lacked a bona fide offering of goods or services and did not make legitimate non-commercial or fair use of the disputed domain name (see, for example, Forum Case No. FA 1773444, Ashley Furniture Industries, Inc v. Joannet Macket/JM Consultants). The Panel further finds that the Respondent is not affiliated with or related to the Complainant in any way and is neither licensed nor otherwise authorised to make any use of the Complainant's trade mark or to apply for or use the disputed domain name. In addition, the Whois information does not suggest that the Respondent is commonly known by the disputed name <hidglobals.com>.

Finally, the Complainant adduced evidence in its submissions to show that the Respondent has used the disputed domain name for phishing/scam purposes by seeking to impersonate the Complainant and sending an e-mail from the disputed domain in an attempt to obtain sensitive personal information and solicit payments from the recipient of the e-mail. The Panel categorially agrees with the Complainant's submission that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. The Panel follows in this regard an established line of cases: CAC Case No. 101578 <ARLEFOOD.COM> found that "To the contrary, it appears that the Respondent has used the disputed domain name to impersonate the Complainant and fraudulently attempt to obtain payments and sensitive personal information. The use of the disputed domain name in connection with such illegal activities cannot confer rights or legitimate interests on the Respondent". See also CAC Case No. 102290 <PEPSICOGDV.COM> (carrying out phishing attacks spoofing the Complainant's identity to send fraudulent emails for financial gain); and, most recently, CAC Case No. 103393 <SonyCreativeSoftware.Info> ("the use of a domain name for illegal activity (e.g. phishing) can never confer rights or legitimate interests on a respondent").

Against this background, and absent any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

With regard to the third UDRP element, the Complainant asserts that the Respondent was clearly aware that the HID and HID GLOBAL trade marks were already registered and being used by the Complainant since it deliberately sent a phishing e-mail seeking to impersonate the Complainant and included in the signature of the supposed sender of the phishing e-mail the Complainant's correct domain name <hidglobal.com>. In any event, the Panel considers that, if the Respondent had carried out Google search for the names HID and HID GLOBAL, the search results would have yielded immediate and obvious references to the Complainant. It is therefore reasonable to infer that the Respondent either knew, or should have known, that the disputed domain name would be identical with or confusingly similar to the Complainant's trade marks and that he registered the disputed domain name in full knowledge of the Complainant's trade marks.

Furthermore, the website related to the disputed domain name is currently inactive and resolves to a parking page. The Respondent has not demonstrated any activity in respect of the disputed domain name. First, it is difficult to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate on the grounds that it would constitute passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trade mark law under circumstances where that disputed domain name corresponds to the Complainant's trade marks and is similar to the Complainant's domain names currently used by the latter to promote its goods and services. Secondly, numerous other UDRP decisions have taken the view, which this Panel shares, that the passive holding of a domain name with knowledge that the domain name infringes another party's trademark rights may in itself be regarded as evidence of bad faith registration and use (see, for example, WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows; and WIPO Case No. D2004-0615, Comerica Inc. v. Horoshiy, Inc.).

Indeed, in its submissions, the Complainant adduced evidence to show that the disputed domain name has been used for sending a phishing e-mail, seeking to persuade the recipient to disclose confidential information and sensitive data, and to obtain fraudulent payments. The Panel again follows an established line of cases in finding that registration and use of a domain name for such purposes constitutes bad faith. See, for example: WIPO Case No. D2018-1815 <hidQlobal.com>: "Respondent registered the disputed domain name which is nearly identical in appearance to Complainant's distinctive trademark. As the disputed domain name effectively impersonates Complainant, there is no evident ground for Respondent to have selected it, other than for using it to induce Internet users, including email recipients, to confuse the owner/sponsor of a website or the sender of an email with Complainant and its products. Regrettably, it is not uncommon for domain names which closely approximate distinctive trademarks to be used as instruments of fraud or other abuse. Respondent has failed to provide any

explanation for its decision to register the disputed domain name, and the Panel is unable to discern or infer any plausible legitimate reason for Respondent to have registered the disputed domain name. These circumstances are sufficient to establish Respondent’s registration and use of the disputed domain name in bad faith". Further, CAC Case No. 101578 (<ARLEFOOD.COM>) concluded that: “As recognized in previous UDRP decisions, the use of a domain name for purposes other than to host a website may constitute bad faith where, like in the case at hand, the circumstances suggest that the disputed domain name has been used for fraudulent purposes such as the sending of deceptive emails to obtain sensitive or confidential personal information or to solicit payment of fraudulent invoices by the Complainant’s actual or prospective customers”.

In the circumstances, the Panel does not need to consider further whether the Respondent’s use of a privacy registration service constitutes further evidence of bad faith. Absent any response from the Respondent, or any other information indicating the contrary, the Panel therefore also accepts that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **HIDGLOBALS.COM**: Transferred

PANELLISTS

Name	Gregor Kleinknecht
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DATE OF PANEL DECISION 2021-06-23

Publish the Decision