

Decision for dispute CAC-UDRP-104223

Case number	CAC-UDRP-104223
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Time of filing	2021-12-09 09:15:20
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Domain names	faureciahella.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	FAURECIA
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Syed J. Hussain
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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

As a global leader in automotive technology, Faurecia (the “Complainant”) provides innovative solutions to automotive challenges across five activities and four business groups: Faurecia Seating, Faurecia Interiors, Interior Modules and Faurecia Clarion Electronics and Faurecia Clean Mobility. With 266 sites in 35 countries and 114,000 employees, Faurecia sales amounted to 14.7 billion euros in 2020. 1 in 3 vehicles worldwide includes a Faurecia technology.

FACTUAL BACKGROUND

The Complainant states that the disputed domain name <faureciahella.com> is confusingly similar to its trademark FAURECIA®.

The addition of the denomination “HELLA” is not sufficient to escape the finding that the domain name is confusingly similar to the trademark FAURECIA®. It does not change the overall impression of the designation as being connected to the Complainant’s trademark FAURECIA®. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademarks.

It is well-established that “a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP”. Please see WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.

On the contrary, the addition of the denomination “HELLA” worsens the likelihood of confusion, as it directly refers to the acquisition by the Complainant of the German company HELLA.

Moreover, the Complainant asserts that the addition of the generic Top-Level Domain suffix “.COM” does not change the overall impression of the designation as being connected to the trademark FAURECIA®. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademarks and its domain names associated.

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).

The Complainant states that the disputed domain name <faureciahella.com> is confusingly similar to its different trademarks and domain names.

Indeed, the addition of letters “hella” in the disputed domain name is not sufficient to avoid the likelihood of confusion with the Complainant’s trademark. The addition of these letters constitutes an obvious misspelling of the Complainant’s trademarks and is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name.

Therefore, the disputed domain name is "confusingly similar" to a mark in which the Complainant has established rights within the meaning 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).

The Respondent has never been authorized or otherwise been licensed or permitted by the Complainant to use any of its trademarks.

The Respondent is also not affiliated in any way with the Complainant.

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).

Given the distinctiveness of the trademark and the content of the website, it is clear that the Respondent registered the disputed domain name in knowledge of the Complainant and its trademarks.

Moreover, the Respondent does not make any use of the disputed domain name. The disputed domain name resolves to a DAN.COM page displaying a general offer to sell the domain for 2 250 EUR.

All these elements lead to the conclusion that the Respondent has intentionally attempted to attract Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of such websites.

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

1. The three essential issues under the paragraph 4(a) of the Policy are whether:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii. the Respondent has no rights or legitimate interests with respect to the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain name, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant has clearly proven that it is a long standing and successful company in the automotive sector. It is clear that its trademarks and domain names “faurecia” are well-known.

The Complainant states that the disputed domain name is confusingly similar to its trademark. Indeed, the trademark is incorporated in its entirety in the disputed domain name. Adding characters and a suffix “com” in it is not distinctive enough.

The disputed domain name is therefore deemed identical or confusingly similar.

b) It has to be stressed that it was proven that there are no fair rights of the Respondent to the disputed domain name. The Respondent is not generally known by the disputed domain name, and has not acquired any trademark or service mark rights in the name or mark.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) The disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder. Therefore, there cannot be seen any legitimate interest of the Respondent.

It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain name was registered and used. It is therefore concluded that the disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph

4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **FAURECIAHELLA.COM**: Transferred

PANELLISTS

Name	Dr. Vít Horáček
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DATE OF PANEL DECISION	2022-01-10
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Publish the Decision
