

Decision for dispute CAC-UDRP-104335

Case number	CAC-UDRP-104335
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Time of filing	2022-02-09 10:09:30
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Domain names	colasusainc.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	COLAS
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	Colas Inc
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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 the owner of the following trademarks:

- National trademark (French trademark)
 - No. 3051318 – COLAS in Classes 1, 19 and 37 with the priority date from 13 September, 2000;
- International trademark:
 - No. 753190 – COLAS in Classes 1, 19 and 37, with the priority date from 16 February, 2001 with protection in notably protected in Australia, China, among other territories.

FACTUAL BACKGROUND

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

The Complainant is a global company based in France and established in 1929. It specializes in construction and maintenance of transport infrastructure.

The Complainant employs around 55,000 people and undertakes about 60,000 projects every year via a network of 800 construction units and 3,000 material production and recycling sites in five different continents. In 2020, the Complainant's

consolidated revenue total EUR 12.3 billion.

The disputed domain name <colasusainc.com> was registered on 5 January, 2022 and it currently resolves to a web page with commercial links.

According to the Complainant, the disputed domain name has been used by the Respondent who was pretending being the Complainant's employee in order to receive payments in place of the Complainant.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

Identical or confusingly similar

The Complainant argues that the disputed domain name <colasusainc.com> and the Complainant's registered trademark COLAS are confusingly similar.

The Complainant argues that its trademark is fully contained within the disputed domain name and points out that the elements in which the signs vary, are generics and thus do not alter the overall confusion between the signs.

No rights or legitimate interests

The Complainant argues that there is no evidence at all that the Respondent is commonly known by the disputed domain name or a name corresponding to the disputed domain name, nor that the Respondent is making a bona fide offering of goods or services. Moreover, the Complainant states that the Respondent has not been licensed or otherwise authorized to use any of the Complainant's trademarks nor to apply for or use any domain name incorporating such trademarks.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant states that due to the fact that the Complainant's trademark, which is fully included in the disputed domain name, was registered many years before the disputed domain name was created, the Respondent could not be unaware of the Complainant's rights over the name COLAS at the time of the disputed domain name registration.

Finally, the Complainant underlines that the Respondent has used the disputed domain name in a phishing scheme by attempting to pass off as one of the Complainant's employees.

RESPONDENT:

The Respondent did not respond to the Complaint.

RIGHTS

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

Paragraph 15 of the Rules states that the Panel decides a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel draws such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidences provided in support of them.

1. The Complainant is owner of trademarks whose common distinctive element is a particle "COLAS", which does not have any known meaning. Besides the national (French) protection, the trademarks "COLAS" have been registered by the Complainant in various non-EU countries, including China and Australia.

The disputed domain name <colasusainc.com> comprises of the Complainant's trademark "COLAS" which is followed by a country indicative "usa" and "inc", which is an abbreviation for a legal corporation. The disputed domain name contains generic Top-Level domain ".com".

Since the Complainant's trademark "COLAS" is fully comprised within the disputed domain name and the additional elements have lower degree of distinctiveness, the Panel considers that the disputed domain name is confusingly similar to Complainant's previously registered trademarks.

The Panel accordingly concludes that paragraph 4(a)(i) of the Policy is satisfied.

2. The Respondent is not in any way related to the Complainant's business, and is not the agent of the Complainant. The Respondent is not currently known and has never been known as "COLAS", or any combination of this trademark.

The websites the disputed domain name is currently associated resolves to a webpage with commercial links. However, the Complainant has not granted any license or authorization to the Respondent to distribute its products/services. Therefore, such active use of the name "COLAS" does not constitute a legitimate interest in the disputed domain name.

Consequently, and in the absence of a Response, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the worldwide presence of the Complainant's trademark and business with which the disputed domain name is highly similar, the Respondent was more likely to be aware of the Complainant's trademark at the time of the registration of the disputed domain name.

Furthermore, the Panel notes that the disputed domain name results in webpage with commercial links which allows to conclude that registration and use of the disputed domain name has been made with commercial purposes.

Bearing in mind these circumstances and taking into consideration the Respondent's phishing activity when pretending of being one of the Complainant's employees, the Respondent can be deemed to have registered the disputed domain name for obtaining commercial gain without a just cause and to the detriment of all consumers' interests and of the Complainant's Intellectual Property Rights.

Under such circumstances, the Panel finds that the disputed domain name was registered in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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1. **COLASUSAINC.COM**: Transferred

PANELLISTS

Name	JUDr. Hana Císlerová, LL.M.
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DATE OF PANEL DECISION	2022-03-11
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Publish the Decision
