

Decision for dispute CAC-UDRP-104917

Case number **CAC-UDRP-104917**

Time of filing **2022-10-25 11:50:03**

Domain names **dalkianordic.com**

Case administrator

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

Complainant

Organization **DALKIA**

Complainant representative

Organization **Mr. Tristan Verna (IP TWINS)**

Respondent

Name **Thomas Hoppe**

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

Complainant holds the rights to the "DALKIA" sign and show valid trademarks. Complainant owns among others the following trademarks:

- International trademark "DALKIA" No. 700874, dated June 19, 1998 (duly renewed), for goods and services in classes 11, 35, 36, 37, 38, 39, 40, 42;
- French trademark "DALKIA" No. 98717437, dated February 11, 1998 (duly renewed), for goods and services in classes 35, 36, 37, 38, 40, 41, 42, 43, 44, 45;
- French trademark DALKIA No. 97709784, dated December 19, 1997 (duly renewed), for goods and services in classes 11, 37, 39, 40;
- Thai trademark DALKIA No. 360164, dated December 19, 1997 (duly renewed), for goods and services in classes 11, 37, 39, 40.

Complainant also operates numerous domain names, integrating sign "DALKIA", namely: cgtedalkia.com, dalkia-analytic.com, dalkia-analytic.fr, dalkia-analytic.net, dalkia-analytic.org, dalkia-analytics.com, dalkia-analytics.eu, dalkia-analytics.fr, dalkia-analytics.net, dalkia-analytics.org, dalkia-digheat.com, dalkia-digheat.fr, dalkia-digheat.net, dalkia-eitb.com, dalkia-eitb.fr, dalkia-eitb.net, dalkia-electrotechnics.com, dalkia-electrotechnics.fr, dalkia-electrotechnics.net, dalkia-gr.fr, dalkia-one.com, dalkia-one.eu, dalkia-one.fr, dalkia-one.net, dalkia-pl.com, dalkia-rcujlt.fr, dalkia-ru.com, dalkia-rus.com, dalkia-sanitas.fr, dalkia-sinlenoble.fr, dalkia-smart-lighting-service.com, dalkia-smart-lighting-service.fr, dalkia-smart-lighting-service.net, dalkia-smart-lighting-services.com, dalkia-smart-lighting-services.fr, dalkia-smartlighting-service.com, dalkia-smartlighting-service.fr, dalkia-smartlighting-service.net, dalkia-smartlighting-services.com, dalkia-smartlighting-services.fr, dalkia-smartlighting-services.net, dalkia-

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FACTUAL BACKGROUND

Created on February 6, 1956, as a part of EDF Group, DALKIA is a French company offering its expertise in developing, building and managing innovative, greener, more cost-effective energy solutions to enable the sustainable growth of cities and companies. In 2021, Dalkia has 18 200 employees and a strong presence in 7 regions of France and 6 countries (the USA, the Middle-East, the UK, Ireland, Poland, Russia) through its affiliates.

Respondent is Mr. Thomas HOPPE, located in Thailand.

On July 25, 2022, Respondent registered the disputed domain name <dalkianordic.com> (hereinafter referred to as the “**Disputed Domain Name**”), which currently resolves to a blog about football club news.

PARTIES CONTENTIONS

A. Complainant

- **Complainant states that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights.**

Complainant considers that the Disputed Domain Name is confusingly similar to its “DALKIA” registered trademarks, which are integrated within many generic top-level domains (the “**TLD**”) and geographical TLDs.

Complainant emphasizes that the Disputed Domain Name incorporates the entirety of Complainant’s registered trademark “DALKIA” and that previous panels have held that when a domain name wholly incorporates a Complainant’s registered mark, this is sufficient to establish identity or confusing similarity for the purposes of the Policy.

According to Complainant, the specific top-level of domain (the “**TLD**”) “.com” does not impact the determination of identity or confusing similarity of the Disputed Domain Name, also referred in *Rollerblade Inc. v. Chris McCrady*, WIPO Case No. D2000-0429.

- **Complainant contends that Respondent does not have rights or legitimate interests in the Disputed Domain Name**

In Complainant’s opinion, the word “dalkia” is an arbitrary term, having no specific meaning in any language. Complainant argues that the term “DALKIA” is not a descriptive term that Respondent can claim for his needs to use for his business activities, in order to describe his goods and/or services. Therefore, Complainant’s arbitrary and fanciful marks are strongly protected against infringement, argued by Complainant by citing the case law *Merrell Pharmaceuticals Inc. and Aventis Pharma SA. v. Lana Carter*, WIPO Case No. D2004-1041.

Complainant also asserts that its worldwide trademark research shows that the “DALKIA” trademarks are in association with only Complainant itself or its affiliates. Furthermore, Complainant states that it has neither business relationship with Respondent nor license, partnership, nor authorisation to use Complainant’s trademarks.

Complainant asserts that the Disputed Domain Name redirects toward a website published by UFABET999 that also has another website configured on another domain name, i.e. at <ufabet999.com>, providing sports betting and online casino services to internet

users.

Complainant argues that there is no evidence demonstrating that Respondent has been commonly known by the Disputed Domain Name which is merely used to generate traffic to contents and redirect to UFABET999 commercial website. Therefore, Respondent (i) does not *bona fide* offer goods or services either prior to or after the registration of the Disputed Domain Name, (ii) does not have prior rights to the trademark, company name, trade or business name, or any prior use of same in relation to his business, (iii) has not been known by the Disputed Domain Name, and (iv) does not make any legitimate non-commercial or fair use of the Disputed Domain Name but allegedly intend to gain or misleadingly divert consumers or to tarnish Complainant's trademarks.

Complainant concludes that Respondent *prima facie* lacks legitimate rights and interests in the Disputed Domain Name and fails to demonstrate his rights and interests by referring to *Croatia Airlines d.d. v. Modern Empire Internet, Ltd.*, WIPO Case No. D2003-0455.

• **Complainant further argues that the Disputed Domain Name was registered and is being used in bad faith**

Complainant claims that Respondent knew or should have known Complainant's prior rights to the trademark "DALKIA". Complainant considers that it is easy to find out about its existence on the Google search engine and inserts *Lancome Parfums Et Beaute & Cie, L'Oreal v. 10 Selling*, WIPO Case No. D2008-0226 to support its argument. There is no plausible explanation Respondent's registration of the Disputed Domain Name other than targeting Complainant trademarks.

Moreover, Complainant underlines that Respondent uses the Disputed Domain Name, incorporating the intensively used and fanciful Trademark of Complainant to attract internet users to Respondent's main website <ufabet999.com> for commercial gain.

B. Respondent

Respondent did not provide any response to the Complaint, and is therefore in default.

RIGHTS

Complainant demonstrates its ownership of valid trademark rights to the "DALKIA" sign and its valid rights to various domain names, containing this sign. It namely owns, among others, the following trademark registrations:

- International trademark "DALKIA" No. 700874, dated June 19, 1998 (duly renewed), for goods and services in classes 11, 35, 36, 37, 38, 39, 40, 42;
- French trademark "DALKIA" No. 98717437, dated February 11, 1998 (duly renewed), for goods and services in classes 35, 36, 37, 38, 40, 41, 42, 43, 44, 45;
- French trademark DALKIA No. 97709784, dated December 19, 1997 (duly renewed), for goods and services in classes 11, 37, 39, 40;
- Thai trademark DALKIA No. 360164, dated December 19, 1997 (duly renewed), for goods and services in classes 11, 37, 39, 40.

The Panel recognizes that Complainant has held the trademark rights to the "DALKIA" sign prior to the registration of the Disputed Domain Name by Respondent.

The Panel finds that the Disputed Domain Name is confusingly similar to Complainant's trademark "DALKIA" as it incorporates Complainant's trademark "DALKIA" in its entirety and in combination with the geographically descriptive term "nordic" as a suffix which does not distinguish the Disputed Domain Name from Complainant's trademark (See *bioMérieux v. Nish Patel - Ready Asset*, WIPO Case No. D2014-0899 and WIPO Overview 3.0).

Finally, the Panel finds that the specific top-level of domain (the "TLD") ".com" does not impact the determination of identity or confusing similarity of the Disputed Domain Name.

The Panel consequently concludes that the Disputed Domain Name is confusingly similar to Complainant's rights and that Complainant has satisfied Policy 4(a)(i).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant asserts that Respondent is not authorised nor licensed to use Complainant's trademarks nor has any business relationship with Complainant. In addition, Respondent is not commonly known under the Disputed Domain Name.

There is no evidence that Respondent is using the Disputed Domain Name in connection with a *bona fide* offering of goods or services or that Respondent is making a legitimate non-commercial or fair use of the Disputed Domain Name. Also, there is no evidence that the Respondent is commonly known by the Disputed Domain Name. Respondent did not respond to the Complaint nor claim its rights or legitimate interests to the Disputed Domain Name. (See *Robertet SA v. Registration Private, Domains By Proxy, LLC / Robert Emshoff*, WIPO Case No. D2021-1367)

Besides, the Disputed Domain Name resolves to UFABET999's blog with a menu tab สโมสร UFABET linking to the commercial website <ufabet999.com>, offering sports betting and casino services. The Panel notes that the Disputed Domain Name does not contain any term describing the services provided by UFABET999 or related to UFABET999 itself.

As a result, the Panel finds that Complainant has made a *prima facie* case that Respondent lacks rights and legitimate interests in the Disputed Domain Name, under Policy 4 (a) (ii).

BAD FAITH

Complainant argues that Respondent must have known about the prior trademark rights of Complainant. This argument is supported by the evidence provided by Complainant, showing an extract of a Google search of the term “DALKIA” where the results refer to Complainant.

The Panel agrees that Complainant’s trademarks “DALKIA” are well-known as many previous panels found they have worldwide widespread reputation and intensively used the trademarks in question (See DALKIA v. (Hu Dong aka Dong Hu), WIPO Case No. D2020-1145; Dalkia v. Whois Privacy Protection Foundation / Christian Russo, Inter Data Systems GmbH, WIPO Case No. D2021-4405; Dalkia v. John Lamba, Inter Data Systems GmbH, WIPO Case No. D2021-4400; DALKIA v. Nguyen Quang, WIPO Case No. D2021-1890; DALKIA v. Shuanshuan Hu, WIPO Case No. D2020-1168). Therefore, the Panel finds that Respondent’s registration of the Disputed Domain Name has not been done in good faith.

Moreover, Complainant states that the Disputed Domain Name is not used for any *bona fide* offering of goods and services but redirects to a website of sports betting and casino services. Complainant argues that Respondent intends to gain or misleadingly diverts consumers or tarnishes Complainant’s trademarks. Therefore, Complainant finds that Respondent registered and used the Disputed Domain Name, incorporating the trademark “DALKIA” for commercial gain only.

The Panel considers that the use of the Disputed Domain Name cannot be considered as a use in good faith. It indeed seems that Respondent is using the Disputed Domain Name for commercial gain, by taking advantage of Complainant’s reputation, and diverting Internet users to lead them to his own website.

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

Complainant holds trademark rights in the “DALKIA” sign. The Disputed Domain Name reproduces Complainant’s trademarks and is therefore confusingly similar to Complainant’s trademarks. The mere addition of the term “nordic” is not sufficient to avoid a likelihood of confusion.

Respondent failed to establish legitimate rights or legitimate interest in the Disputed Domain Name. Complainant established that Respondent registered and uses 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. **dalkianordic.com**: Transferred

PANELLISTS

Name	Nathalie Dreyfus
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DATE OF PANEL DECISION 2022-11-30

Publish the Decision
