

ADMINISTRATIVE PANEL DECISION

Veikkaus Oy v. John Doe
Case No. DIO2023-0021

1. The Parties

The Complainant is Veikkaus Oy, Finland, represented Berggren Oy, Finland.

The Respondent is John Doe, Denmark.

2. The Domain Name and Registrar

The disputed domain name <veikkaus.io> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2023. On June 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 22, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 26, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on June 28, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 21, 2023.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on July 26, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a Finnish betting, lottery, and gambling service provider. It is currently the only company authorized to legally offer gambling, betting and lottery games in Finland.

The Complainant is the owner of the following trademark registrations for VEIKKAUS:

- Finnish trademark registrations No. 248158, registered on February 15, 2010, in classes 35 and 42; and
- Finnish trademark registrations No. 266351, registered on April 8, 2016, in classes 9, 16, 28, 35, 36, 38, 41 and 42.

The Complainant owns numerous domain names consisting in or including “veikkaus”, among which the domain name <veikkaus.fi>.

The disputed domain name was registered on March 21, 2021.

At the time of filing of the Complaint, the disputed domain name resolved to an active website in Finnish, purportedly advertising gambling and betting services, and containing links to casino and gambling games operated by third parties.

5. Parties' Contentions

A. Complainant

According to the Complainant, the disputed domain name is identical to its trademark VEIKKAUS, which it incorporates in its entirety.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name, as the Respondent has not used the disputed domain name in connection with noncommercial or fair use. According to the Complainant, the Respondent does not have any rights preceding those of the Complainant to the name “veikkaus” or to the disputed domain name. The Respondent is neither affiliated with the Complainant nor authorized by it in any way to use the trademark VEIKKAUS. The Complainant does not carry out any activity for, nor has any business with the Respondent. On the contrary, the Respondent's website contains links that may lead visitors to betting and gambling applications that are in breach of Finnish law.

Finally, according to the Complainant, the Respondent has registered and used the disputed domain name in bad faith. The Complainant asserts in this respect that the use and registration of the disputed domain name by the Respondent have been done with the intention to attract Internet users to the Respondent's website, creating a likelihood of confusion with the Complainant's trademark. The Complainant sets forth that online casino service providers offer so called “affiliate programs” to owners of interesting and attracting domain name registrations, whereby the provider of links will receive a revenue for the promotion of the online casinos. The Complainant contends that profit through affiliate programs is the only reason why the Respondent has registered the disputed domain name and established a website “to promote” VEIKKAUS products.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent 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 in respect of the domain name; and
- (iii) the domain name registered by the respondent has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name is identical to the Complainant's VEIKKAUS trademark. It is well established that ".io", as a country code Top-Level Domain suffix ("ccTLD"), is disregarded in the assessment of identity or similarity between a domain name and a complainant's trademark.

The Panel finds accordingly that the Complainant has successfully established the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Based on the information submitted by the Complainant, the Respondent does not appear to have rights or legitimate interests in respect of the disputed domain name, nor has the Complainant granted to the Respondent an authorization to use its trademark in the disputed domain name. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

The use of the disputed domain name, which is identical to the Complainant's trademark, in connection to a website purportedly offering information on the Complainant's service carries a high risk of implied affiliation, as the disputed domain name impersonates or at least suggests endorsement of the Respondent's website by the Complainant. For this reason, the Respondent is not making a legitimate use of the disputed domain name. Furthermore, the use of the disputed domain name in connection with a website offering links to illegal online gaming and gambling services cannot be deemed a *bona fide* use.

Finally, the Respondent did not file a response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

In view of the above, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and that the Respondent's silence corroborates such *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Complainant has satisfied the condition set out in paragraph 4(a)(ii) of the Policy.

C. Registered or Used in Bad Faith

The disputed domain name was registered after the Complainant registered its trademarks. Given the presence on the website connected to the disputed domain name of several references to the Complainant's field of activity and the language of the website (Finnish), the Panel finds it unlikely that the disputed domain name was chosen independently from the Complainant's trademark. Consequently, the Panel considers that the Respondent could not ignore the existence of the Complainant and of its trademark at the time of the registration of the disputed domain name, such that the disputed domain name was registered in bad faith.

Furthermore, the Respondent used the disputed domain name in connection with an active website advertising gambling and betting services, and containing links to casino and gambling games operated by third parties, an illegal activity according to the Complainant.

Finally, the Panel notes that the Respondent has provided contact information that is obviously wrong, as the provided address is “Nowhere Lane” in “Citi, Fantasy, Denmark”. This also supports a finding of bad faith registration.

In view of the explanations provided by the Complainant regarding the so-called affiliate programs offered by online casinos to the owners of domain names (explanations that remained unchallenged as the Respondent did not file a response), the Panel accepts that the Respondent has used the disputed domain name to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of his website, a behavior which amounts to use in bad faith according to paragraph 4(b)(iv) of the Policy.

For the reasons set out above, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith, and that the Complainant has satisfied the condition set forth in paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <veikkaus.io> be transferred to the Complainant.

/Anne-Virginie La Spada/

Anne-Virginie La Spada

Sole Panelist

Date: August 9, 2023