

ADMINISTRATIVE PANEL DECISION

Tokmanni Oy v. Jordan Pipiads, JORPIPI
Case No. D2024-2443

1. The Parties

The Complainant is Tokmanni Oy, Finland, represented by Fondia Oyj, Finland.

The Respondent is Jordan Pipiads, JORPIPI, France.

2. The Domain Name and Registrar

The disputed domain name <tokmanni-fi.com> is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 14, 2024. On June 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on June 18, 2024, 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 (Unknown) and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 24, 2024, 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 25, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform 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 July 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 30, 2024.

The Center appointed Roger Staub as the sole panelist in this matter on August 9, 2024. 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 Tokmanni Oy, a Finnish company, which was incorporated in 2004. The Complainant submits that it is a leading low-cost store chain in Finland.

The Complainant submits that its turnover in 2023 totaled EUR 1.2 billion. According to the Complainant's website "www.tokmanni.fi", the Complainant's group ("Tokmanni Group") runs more than 370 stores including two online stores (about 200 of the stores being "Tokmanni Stores"), generated a total turnover of EUR 1.393 billion, and had 50,491 registered share owners at the end of 2023. At the end of 2022, Tokmanni had 4,241 employees.

The Complainant owns the Finnish trademark No. 237720 TOKMANNI, registered on November 15, 2006, in Classes 16 and 35.

The Complainant holds the domain name <tokmanni.fi>, which was created on August 13, 2006. The Complainant submits that it has been operating its primary webstore since 2006 under this domain name.

The disputed domain name was registered on June 3, 2024.

There is no information publicly available about the disclosed Respondent. The disputed domain name resolved to a website containing an almost identical design and layout as displayed on the webstore, which the Complainant's runs under its domain name <tokmanni.fi>.

On June 12, 2024, the Complainant's outside counsel sent a letter to the Registrar of the disputed domain name requesting the immediate takedown of the website and the transfer of the disputed domain name to the Complainant. The disputed domain name currently resolves to an inactive site.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

First, the disputed domain name contains, or is confusingly similar to, a trademark or service mark in which the Complainant has rights. The Complainant is the registered owner of the company name "Tokmanni" and is the proprietor of the Finnish trademark registration TOKMANNI (word). The entirety of the Complainant's TOKMANNI trademark and company name is reproduced in the disputed domain name.

Second, the Respondent has no rights or legitimate interests in respect of the disputed domain name. To the knowledge of the Complainant, there are no other entities or individuals commonly known by the name TOKMANNI other than the Complainant. It is evident that the Respondent has been fully aware of the Complainant's TOKMANNI trademark and trade name, as the Respondent has used the disputed domain name to target the Complainant's customers by impersonating the Complainant and creating a website that mimics almost identically the Complainant's website.

Third, the disputed domain name was registered and is being used in bad faith. The disputed domain name includes identically the Complainant's trademark, company name, and domain name and has evidently been registered to specifically target Finnish consumers, as it contains the ending "-fi". In view of the Complainant's reputation as a widely known retail sales company in Finland, it is clear that the Respondent's purpose has been to confuse consumers into believing that they are dealing with the Complainant when encountering the disputed domain name. The Respondent has taken deliberate steps to make the website to which the disputed domain name resolves to look exactly like the Complainant's webstore, including displaying almost identical images, logos, layout and products on the site. The Complainant has probable cause to believe that the Respondent's website has been used for illegal activity, i.e., impersonating the Complainant for the purpose of fraudulently collecting consumers' personal data and bank card details.

B. Respondent

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

6. Discussion and Findings

According to the Policy, to qualify for a cancellation or transfer, the Complainant must prove each of the following:

First, the disputed domain name is identical or confusingly similar to a trademark or service mark to which the Complainant has rights.

Second, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Third, the disputed domain name has been registered and is being used in bad faith.

Since the Respondent did not submit a reply, the Panel may choose to accept the reasonable contentions of the Complainant as true. This Panel will determine whether those facts constitute a violation of the Policy that is sufficient to order the transfer of the disputed domain name (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. The addition of the abbreviation "-fi" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence

demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity (here claimed: impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

In the absence of any evidence filed by the Respondent, the Panel does not see any indications being given for any circumstances suggesting that the Respondent may have rights or legitimate interests in the disputed domain name. There are no indications that the Respondent is in any way legitimately linked to the business that the Complainant runs under the TOKMANNI trademark. To the contrary, the Panel is inclined to assume that the Respondent was well aware of the Complainant's trademark when it registered the disputed domain name. This is supported by the fact that the Respondent uses on the website accessible under the disputed domain name the Complainant's logo and images from the Complainant's website without the Complainant's authorisation.

Additionally, since the disputed domain name consists of the trademark TOKMANNI plus the additional geographical term "-fi", such composition cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (see section 2.5.1 of the [WIPO Overview 3.0](#)).

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Complainant submits as evidence screenshots of its own website and of the website accessible under the disputed domain name. A comparison of the two websites suggests that the website accessible via the disputed domain name mimics almost identically the Complainant's website. The use of "-fi", which is the abbreviation, as well as the country code top-level domain (ccTLD) of the Complainant's home country Finland, further supports the impression that the Respondent aims at creating a link between its own website and the Complainant's successful business and, at the end of the day, to attract and confuse consumers.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity (here claimed: impersonation/passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. There are no plausible indications at all for a possible good faith use of the disputed domain name by the Respondent. The Respondent failed to submit a response and, thus, any evidence of an actual or contemplated good faith use. The fact that the disputed domain name currently resolves to an inactive website does not prevent a finding of bad faith.

The Panel finds that the Complainant has established the third element 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 <tokmanni-fi.com> be transferred to the Complainant.

/Roger Staub/

Roger Staub

Sole Panelist

Date: August 23, 2024