

ADMINISTRATIVE PANEL DECISION

Veikkaus Oy v. Christopher Hammer, SEO-Butler.dk
Case No. DIO2023-0042

1. The Parties

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

The Respondent is Christopher Hammer, SEO-Butler.dk, Denmark.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 1, 2023. On November 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 2, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on November 3, 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 November 6, 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 November 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2023. The Respondent did not submit a formal response, but sent an email communication on November 6, 2023. On December 4, 2023, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Jonas Gulliksson as the sole panelist in this matter on December 13, 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/operator owned by the Finnish state.

The Complainant is the proprietor of Finnish trademark registration No. 276534 for PITKÄVETO, registered on January 7, 2020. Further, The Complainant is the proprietor of the domain names <pitkaveto.fi> and <pitkäveto.fi>.

The Domain Name was registered on March 21, 2021, and it resolves to a website containing information about different casino, betting, and gambling related websites.

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 Domain Name. Notably, the Complainant contends that:

The Domain Name is confusingly similar to the Complainant's earlier PITKÄVETO trademark.

The Respondent has no right or legitimate interest in respect of the Domain Name. The Complainant is the only company that is legally entitled to offer gambling, betting, and lottery games services in Finland. PITKÄVETO was launched in 1993. The website to which the Domain Name resolves (the "Domain Name Website") exploits the reputation of the Complainant and the consumers' awareness on the Complainant and its services. Further, the Domain Name Website is confusingly similar to the Complainant's own website. All information on the Domain Name Website relates to the Complainant's services, namely, lottery, gaming or to gambling activities, all in violation of Finnish legislation. The Domain Name Website is in Finnish and the Finnish consumers only know the Complainant as the provider for betting and gambling services. Considering that the Complainant is the proprietor of the PITKÄVETO trademark and domain names that are similar to such trademark, consumers will automatically presume that the Domain Name is also owned by the Complainant or that it has some other connection to it. In addition, the Respondent does not have any rights preceding those of the Complainant to the name "pitkäveto" or to the Domain Name. The Respondent is neither affiliated with the Complainant nor authorized by it in any way to use the trademark PITKÄVETO. The Complainant does not carry out any activity for, nor has any business with the Respondent. On the contrary, the Domain Name Website links Internet users to betting and gambling websites that are in breach of Finnish law.

Article 11 of the Finnish Lottery Act (23.11.2001/1047) stipulates that the Complainant has the exclusive right to conduct betting and gambling in Finland. According to Article 12 of the same Act, "The company's task is to engage in gambling activities in such a way as to guarantee the legal security of participants in gambling, to prevent abuses and crimes and to prevent and reduce economic, social and health harm caused by gambling". Section 14 b of the Finnish Lottery Act regulates the marketing of gambling. There are strict requirements for the marketing and the compliance with them is monitored by the National Police Board of Finland ("PoHa"). In the guidelines for the marketing of gambling issued by the PoHa on June 3, 2015, in section 3.2., it is expressly stated that the marketing of gambling is permitted only to the gambling company identified in Article 11 of the Lotteries Act (the Complainant), and in case marketing is conducted on behalf of gambling service providers, it must be clear from the marketing that it is carried out on behalf of such

gambling service providers. The Domain Name causes serious harm to the Complainant's tightly regulated business and to the Finnish consumers. To the knowledge of the Complainant, the Respondent is not commonly known by the Domain Name and its use of the Domain Name is neither noncommercial nor constitutes fair use.

The Domain Name was registered and is being used in bad faith. The use and registration of the Domain Name has been done with the intention to attract Internet users to the Domain Name Website, creating a likelihood of confusion with the registered and well-known PITKÄVETO trademark and lottery operations of the Complainant. The Respondent has clearly been aware of the Complainant's business. The Respondent undeniably knew the identity and business of the Complainant and had intent to target its rights for commercial purposes before it registered the Domain Name.

B. Respondent

The Respondent sent an email to the Center on November 6, 2023, asking what the case is about and who the Complainant is, however, the Respondent did not reply to the Complainant's contentions even after the formal notification of the complaint and commencement of the administrative proceeding on November 10, 2023.

6. Discussion and Findings

The burden for the Complainant under paragraph 4(a) of the Policy is to prove:

- that the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- that the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- that the Domain Name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it holds trademark rights in relation to PITKÄVETO.

The first part of the Domain Name consists of the word "pitkaveto", which is near identical to the Complainant's PITKÄVETO trademark, with the substitution of the letter "a" instead of the letter "ä", which does not prevent the recognizability of the Complainant's trademark. The second part of the Domain Name consists of the word "vihjeet". This part is followed by the country code Top-Level-Domain ("ccTLD") ".io".

The addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise), such as the word "vihjeet", does not prevent a finding of confusing similarity under the first element. Further, it is well established that ".io", as a ccTLD, is typically disregarded in the assessment of confusing similarity.

Accordingly, the Panel finds that that the Domain Name is confusingly similar to a trademark in which the Complainant has rights, in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must first make out a *prima facie* case showing that the respondent lacks rights or legitimate interests in respect of a disputed domain name and then the burden of production, in effect, shifts to the respondent to come forward with evidence of its rights or legitimate interests. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Considering the evidence presented in the case, the Complainant's status as the only company permitted to provide gambling services in Finland under Finnish law, and the Complainant's contentions that the Respondent has no rights or legitimate interests in the Domain Name, the Panel finds that the Complainant has made out a *prima facie* case.

The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any evidence demonstrating rights or legitimate interests in the Domain Name. To the contrary, the Panel finds that the Domain Name carries a risk of affiliation with the Complainant. The composition of the Domain Name (the Complainant's trademark with the word "vihjeet" meaning "tips" in English) and the contents of the Domain Name Website shows that the Respondent intentionally has tried to impersonate the Complainant or give the impression that there exists an affiliation between the Respondent and the Complainant. Such use of the Domain Name cannot confer rights or legitimate interest on the Respondent with respect of the Domain Name.

The Panel finds that the Complainant has established that the Respondent lacks rights or legitimate interests in the Domain Name, in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered or Used in Bad Faith

The content of the Domain Name Website clearly reflects the Respondent's awareness of and intent to target the Complainant and its PITKÄVETO trademark. The content of the Domain Name Website shows that the Respondent intentionally has tried to attract, for commercial gain, Internet users to the Domain Name Website by creating a likelihood of confusion with the Complainant's PITKÄVETO mark as to the source, sponsorship, affiliation, or endorsement of the Domain Name Website and the services marketed on such website.

Considering the above and all facts in the case, the Panel finds that the Domain Name was registered in bad faith and that it also is being used in bad faith.

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 Domain Name <pitkavetovihjeet.io> be transferred to the Complainant.

/Jonas Gulliksson/

Jonas Gulliksson

Sole Panelist

Date: December 27, 2023