Decision for dispute CAC-UDRP-102217

Case number	CAC-UDRP-102217
Time of filing	2018-11-13 08:55:53
Domain names	rueducommerce.store

Case administrator

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

Complainant

Organization	RueDuCommerce

Complainant representative

Organization	CHAIN AVOCATS

Respondent

Name	Jean-Louis Conte

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending or decided legal proceedings which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

French Trade mark Registration No. 3036950 RUE DU COMMERCE for various goods and services in NICE classes 9, 16, 28, 35, 38, 41 and 42 - Filing date: 27 June 2000;

Community Trade Mark Registration No. 008299356 RUE DU COMMERCE for various goods and services in NICE classes 9, 16, 35, 36, 37, 38, 41 and 42 - Filing date: 14 May 2009.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

The Complainant is a French company that has provided online retail services under the trade mark RUE DU COMMERCE for over 15 years. Its website, which is located at www.rueducommerce.com, has over 5 million pages and receives more than 4.2 million visits per month. It has advertised its online retail services extensively through various mediums including radio, television and social media.

The Complainant is also the owner of numerous trade marks containing or consisting of the words RUE DU COMMERCE,

including:

French Trade mark Registration No. 3036950 RUE DU COMMERCE for various goods and services in NICE classes 9, 16, 28, 35, 38, 41 and 42 which was filed on 27 June 2000; and

Community Trade Mark Registration No. 008299356 RUE DU COMMERCE for various goods and services in NICE classes 9, 16, 35, 36, 37, 38, 41 and 42 including which was filed on 14 May 2009.

The disputed domain name was registered recently on 27 October 2018. It has been used to direct internet users to a website that offers video games for sale with prices indicated in Euros. The website also featured the Complainant's logo. However after being put on notice by the Complainant the disputed domain name no longer resolves to a website.

The Respondent provided his name when registering the disputed domain name as Jean-Louis Conte and he provided his address as being in France.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark 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 (4)(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the domain name registered by the Respondent be transferred to the Complainant:

1) The domain name is identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has rights; and

2) the Respondent has no rights or legitimate interests in respect of the domain name; and

3) the domain name has been registered and is being used in bad faith.

The Panel is satisfied the Complainant has satisfied all three elements for the principal reasons set out below.

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

The Complainant has demonstrated to the satisfaction of the Panel that it has registered rights in the trade mark RUE DU COMMERCE that predates the registration of the disputed domain name by the Respondent.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a trademark that predates the registration of the disputed domain name in a single jurisdiction (even if that single jurisdiction is not one in which the Respondent resides or operates) (Koninklijke KPN N.V. v. Telepathy, Inc D2001-0217 (WIPO May 7, 2001); see also WIPO Case Nos. D2012-0141 and D2011-1436). The Panel is satisfied of such.

The next matter is therefore to address if the disputed domain name is confusingly similar to the trade mark RUE DU COMMERCE.

The domain name is identical to the RUE DU COMMERCE trademark save for the fact it contains the gTLD suffix ".store". The Panel does not disregard this suffix. It is possible for a gTLD or ccTLD suffix to convey some meaning to internet users. Indeed the primary purpose of the country code top level domains is to indicate a connection with geographic regions. Not all suffixs have the somewhat meaningless nature of ".com" or ".net". However in the present disputed domain name the ".store" suffix conveys a meaning that merely increases rather than alleviates the risk of confusion. The RUE DU COMMERCE trademark is registered and used in relation to goods and services relating to online retailing through an online "store". The <.store> suffix in <rueduecommerce.store> merely emphasises this fact to internet users. It is akin a viewing the domain names <mcdonalds.restaurants> or <volvo.cars> where consumers would immediately think of the services and goods of the owners of these well known brands.

The disputed domain name is confusingly similar to the RUE DU COMMERCE trademark.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent's name according to the WHOIS extract is "Jean-Louis Conte", which is known as a male name of French origin. This name bears no resemblance to "RUE DU COMMERCE".

However, what is most telling is that the disputed domain name has been used to direct internet users to a website which clearly aims to mimic the Complainant and even uses the Complainant's logo without authority. Such conduct could not be further from legitimate.

The Respondent has no rights or interests in the disputed domain name.

BAD FAITH

The Complainant's legal representative, Cyril Chabert, annexed to the Complaint numerous documents evidencing the Complainant's claims of extensive advertising and marketing of the RUE DU COMMERCE, which the Panel found very useful. As a result of reviewing this extensive evidence the Panel accepts the Complaint's assertions to the effect that RUE DU COMMERCE is a very well known trade mark in the Respondent's home jurisdiction of France in relation to online retailing. This reputation is so well evidenced that the Panel finds that it would be unlikely that any internet user residing in France who engages in online purchases would not be aware of the Complainant's business conducted under the RUE DU COMMERCE trade mark. It would be even less likely that any online retailer residing in France, like the Respondent purports to be, would be likewise unaware.

This fact alone indicates that the Respondent was aware of the Complaint's reputation in RUE DU COMMERCE at the time of registering the disputed domain name. However the obvious mimicking of the Respondent's business and blantent copying of its logo puts it beyond all doubt.

On behalf of the Complainant Mr. Chabert asserted that the disputed domain name had been used "in bad faith to scam

consumers". The Panel agrees with this strong allegation and further adds that the Respondent's conduct in using the disputed domain name in the manner it did appears disgraceful and fraudulent.

It is clear that the Respondent has registered and used 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. **RUEDUCOMMERCE.STORE**: Transferred

PANELLISTS

Name	**Mr Andrew Norman Sykes**

DATE OF PANEL DECISION 2018-12-21

Publish the Decision