Decision for dispute CAC-UDRP-102400

Case number	CAC-UDRP-102400
Time of filing	2019-03-19 09:37:38
Domain names	acindar.online

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	ACINDAR INDUSTRIA ARGENTINA DE ACEROS S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Sandeep Rangu

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

Argentinian Trademark Registration Number 2269589 ACINDAR - Registration date 21 January 2009;
Argentinian Trademark Registration Number 2281446 ACINDAR - Registration date 7 April 2009;
Argentinian Trademark Registration Number 2736840 ACINDAR - Registration date 29 January 2015;
United States Trademark Registration Number 2479321 ACINDAR and diamond device - Registration date 21 August 2001.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a steel producing company. It produces long steel for civil construction, oil, energy, automotive, agriculture and industry in general. It was created in 1942 and now has approximately 2,300 employees and produces 1.75 Billion tons of steel annually. It is part of the ArcelorMittal Group, which is the largest steel producing group in the world.

The Complainant owns a number of trademarks consisting of, or containing, the word ACINDAR including those listed above.

It is also the owner of the domain name <acindar.com.ar> which was first registered on 5 May 1997. That domain name is used for the Complainant's official website.

The word ACINDAR has no known meaning in any language. And the results of a search for the term "ACINDAR" conducted through www.google.com on 14 March 2019 showed an entire first page of results relating to the Complainant.

The disputed domain name was registered on 7 March 2019. It redirects web-users to a page without any substantial content except for an error message.

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 disputed domain name registered by the Respondent be transferred to the Complainant:

1) the disputed 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 disputed domain name; and
3) the disputed 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

As mentioned above the Complainant asserts it has a number of trademark registrations containing or consisting of the words ACINDAR. Some of these registrations predate the registration date of the disputed domain name by over a decade.

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 Complainant has clearly satisfied such in relation to the trademark ACINDAR.

The next question is whether the disputed domain name is confusingly similar to the ACINDAR trademark.

The Panel disregards the gTLD suffix ".online" for the purpose of this comparison. It is no more distinctive than the common gTLDs ".com" or ".net" and as to any brand significance it is likely to be totally ignored by web users. Such web users are likely to focus entirely on the only distinctive element in the disputed domain name, being the ACINDAR element.

The disputed domain name is therefore confusingly similar to the ACINDAR trademark.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent's name according to information provided by the registrar for the disputed domain name is "Sandeep Rangu", which is known as a male name of Indian origin. This name bears no resemblance to "ACINDAR". Further, the website to which the disputed domain name resolves has no content which would indicate any right or legitimate interest in the disputed domain name.

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

BAD FAITH

The Panel notes that the disputed domain name redirects web users to a page without any substantial content except for an error message. The Panel also notes that the disputed domain name has been registered for a short period of time. Such facts alone do not indicate bad faith. This is not a case of prolonged passive holding. It is not, in the Panel's opinion, indicative of bad faith for a domain name registrant to fail to immediately direct the disputed domain name to an active page within a month or two of registration.

However the apparent passive holding of the disputed domain name is not what is of central concern to the Panel on the issue of bad faith. What is of concern is that;

(a). According to the Complainant's uncontested contentions ACINDAR has no known meaning in any language; and
(b). The only distinctive element in the disputed domain name is ACINDAR; and
(c). The Complainant has evidenced long standing registered rights in trade marks consisting of, or containing, ACINDAR coupled with uncontested contentions of the size of the Complainant's business under its ACINDAR trade mark and its prominence in a Google search.

These combined facts have led the Panel to the conclusion that it is highly unlikely that the Respondent would not have known of such a unique trade mark when he sort to register the disputed domain name. Even in absence of significant corroborative evidence of the Complainant's reputation (which consisted of only one substantive extract from its website together with the said Google search results) the Respondent has not contested the Complainant's assertions as to its size and notoriety and it is therefore accepted by the Panel that ACINDAR trade mark was well known at the time the Respondent registered the disputed domain name.

As the Panel has found the Respondent had such prior knowledge of the ACINDAR trade mark at the time of registering the disputed domain name it can only follow that his purpose in registering the disputed domain name was to opportunistically profit from such confusing similarity. The Respondent targeted the Complainant's well known name for this purpose. Such opportunism has been recognised as bad faith by numerous panels, the Panel refers to the commentary of the learned Gerald M Levine, Domain Name Arbitration, Legal Corner Press, 1st ed. 2015, pp. 258 to 259.

Therefore in consideration of all the circumstances the disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **ACINDAR.ONLINE**: Transferred

PANELLISTS

Name	**Mr Andrew Norman Sykes**

DATE OF PANEL DECISION 2019-04-25

Publish the Decision