Decision for dispute CAC-UDRP-102676

Case number	CAC-UDRP-102676
Time of filing	2019-09-17 09:09:58
Domain names	courir.store

Case administrator

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

Complainant

Organization	GROUPE COURIR

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	StarFolies

OTHER LEGAL PROCEEDINGS

The Panel is unaware of other legal proceedings which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the registrant of several COURIR trademarks, including International Trademark 941035 for the word COURIR, registered on September 25, 2007 and International Trademark 1221963 for the semi-figurative mark C COURIR, registered on July 9, 2014, in which the initial letter C is coloured red and is depicted at a slight angle from the vertical.

FACTUAL BACKGROUND

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

Over the years, the Complainant has set a new benchmark for the sneaker fashion industry. The COURIR stores are aimed at an urban clientele from 15 to 25 years old. With its selection of sneakers, ready-to-wear and fashion accessories for men, women and children, the Complainant had in 2018 188 stores and 50 affiliated stores in France. The Complainant is also present internationally, with 27 stores located in Spain, Poland and in the Maghreb, the Middle East and overseas territories Its official website at "www.courir.com" displays its semi-figurative mark.

The disputed domain name <courir.store> was registered on August 25, 2019. When the Complainant first noticed this registration, the disputed domain name pointed to a website looking like the Complainant’s official website, displaying its

semi-figurative trademark C COURIR. It currently resolves to the website https://www.shoessport.fr/ an online store which sells sport shoes.

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 to a trademark 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

In accordance with paragraph 4(a) of the Policy, to obtain transfer of a domain name, a complainant must prove the following three elements: (i) the respondent's domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; (ii) the respondent has no rights or legitimate interests in the domain name; and (iii) the respondent has registered the domain name and is using it in bad faith.

Under paragraph 15(a) of the Rules, "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, asserted facts may be taken as true and reasonable inferences may be drawn from the information provided by the complainant. See Reuters Limited v. Global Net 2000, Inc, WIPO Case No. D2000-0441.

The Panel accepts the Complainant's submission that the disputed domain name is identical to the Complainant's COURIR trademark, noting that the top-level suffix, in this case ".store", may be disregarded for the purpose of determining whether the disputed domain name is identical or confusingly similar. See Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr., WIPO Case No. D2000-1525.

Paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by a respondent, shall demonstrate rights to or legitimate interests in a domain name for purposes of paragraph 4(a)(ii) of the Policy, i.e.

(i) before any notice to the respondent of the dispute, the use by the respondent of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) the respondent (as an individual, business or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The Complainant asserts that the Respondent is not known by the disputed domain name and is not affiliated with nor authorized by the Complainant in any way. The Complainant does not carry out any activity for, nor has any business with the Respondent and has not granted any licence or authorization to the Respondent to make any use of the Complainant's trademark COURIR, nor to apply for registration of the disputed domain name. The disputed domain name currently points to the website www.shoessport.fr/ an online store which sells sport shoes. The Complainant contends that the disputed domain name was registered in order to create a likelihood of confusion with the Complainant and its trademarks. The Respondent uses the disputed domain name to offer services in direct competition with Complainant. Using a confusingly similar domain name that resolves to a competing webpage is not a bona fide offering of goods or services.

The Complainant's assertions are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in respect of the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain name. See Cassava Enterprises Limited, Cassava Enterprises (Gibraltar) Limited v. Victor Chandler International Limited, WIPO Case No. D2004-0753. The Respondent has made no attempt to do so. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which, though not exclusive, shall be evidence of the registration and use of the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy, i.e.

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The Panel accepts the Complainant's submission that the Respondent registered the disputed domain name many years after the Complainant had established a strong reputation and goodwill in its mark, especially in France, where both the Complainant and the Respondent are established. When the Complainant first noticed its registration, the disputed domain name pointed to a website looking like the Complainant's official website, displaying its figurative trademark C COURIR. Under these circumstances the Panel accepts that it is very unlikely that the Respondent was unaware of the Complainant and its trademark, and finds that the Respondent likely targeted the Complainant and its trademark COURIR when registering the disputed domain name, which the Respondent is using to divert Internet users searching for the Complainant's website to the Respondent's competing website, and to create a likelihood of confusion with the Complainant's mark for the Respondent's commercial gain by offering competing products.

The Panel also notes that, although the gTLD suffix ".store" may be disregarded when considering the element of identity or confusing similarity, it may nevertheless be taken into account when considering the other elements. In this case, the Panel finds that the Respondent's choice of the domain name <courir.store> was intended to enable the Respondent to masquerade as the Complainant by pretending to operate an official sales outlet of the Complainant.

Accordingly the Panel finds that 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. **COURIR.STORE**: Transferred

PANELLISTS

Name	**Alan Limbury**

DATE OF PANEL DECISION 2019-10-16

Publish the Decision