Decision for dispute CAC-UDRP-102682

Case number	CAC-UDRP-102682
Time of filing	2019-09-27 09:51:15
Domain names	courirs.com

Case administrator

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

Complainant

Organization	GROUPE COURIR

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	lacoquefrancaises

OTHER LEGAL PROCEEDINGS

There are no other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

Complainant is the owner of several trademarks “COURIR” such as:

- The international trademark “COURIR” n°941035 registered on September 25, 2007 and duly renewed since then;

- The EU trademark “COURIR” n°006848881 filed on April 4, 2008 and duly renewed since then;

- The international trademark “C COURIR” n°1221963 registered on July 9, 2014;

- The EU trademark “COURIR” n°017257791 filed on September 27, 2017.

FACTUAL BACKGROUND

Complainant is GROUPE COURIR, a French company specializing in the fashion sneaker industry. In 2018, Complainant had 188 stores and 50 affiliated stores in France, and 27 stores located abroad.

Complainant is the owner of several trademarks “COURIR”.

Complainant also registered domain names such as its official domain name <courir.com>, registered on February 16, 1998.

The disputed domain name is <courirs.com> which was registered on September 21, 2019 and resolves to a website <www.shoessport.fr>.

Respondent did not respond to Complainant’s contentions.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

First, Complainant considers that the disputed domain name <courirs.com> is confusingly similar to its “COURIR” trademark. Complainant argues that the disputed domain name incorporates its trademark in its entirety, with the mere addition of the letter “s” at the end of “courir”. Complainant also noted that the addition of the generic Top Level “.com” is generally considered as insufficient to distinguish the domain name from the trademark.

Second, Complainant alleges that Respondent has no right or legitimate interests in the disputed domain name. Respondent is not known under the disputed domain name but under the sign “lacoquefrançaises”. Furthermore, Complainant alleges that Respondent is not affiliated with nor authorized by Complainant to use its trademark. Thus, Respondent has no right or legitimate interests in the disputed domain name. Respondent has no business or activity linked to Complainant and no license has been granted in his favor to make use of Complainant’s trademark.

Complainant also argues that the disputed domain name is pointing to a website www.shoessport.fr which is an online store selling sport shoes. Complainant thus considers that Respondent registered the disputed domain name in order to create a likelihood of confusion with Complainant. It alleges that the disputed domain name is a typosquatted version of its trademark and therefore not a bona fide offering of goods and services.

Complainant then states that there is no mention of Respondent other than the one on the website towards which points the disputed domain name, which could prevent likelihood of confusion. Furthermore, this website is written in French, and Complainant is a French company and its official website is also in French. Finally, the section “Retours” on the website redirects to another website <footlocker.eu>.

Third, Complainant alleges that it had established a strong reputation and goodwill in its trademark many years before Respondent registered the disputed domain name. Respondent’s website is in French as is Complainant’s official website. Complainant argues that Respondent knew about Complainant and likely targeted it when registering the disputed domain name. Complainant considers that by registering <courirs.com>, Respondent intentionally created a likelihood of confusion, since it merely added an “s” to Complainant’s trademark. Respondent intentionally diverts Internet users to the competing website.

Finally, Complainant alleges that the section “Retours” of the website redirects to another website using the logo of another competitor, also written in French. Complainant states that Respondent has registered and is using the disputed domain name in bad faith.

RESPONDENT:

Respondent did not reply to Complainant’s contentions.

RIGHTS

FINDINGS:

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

Paragraph 4(a) of the Policy requires that a complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

(1) the domain name registered by respondent is identical or confusingly similar to a trademark or service mark in which 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.

A. Rights – Identical or confusingly similar

Complainant has duly shown valid trademark rights for the sign “COURIR”. Said sign is used for selling sneakers and has many stores in France and abroad, as well as affiliated stores.

First, the disputed domain name <courirs.com> fully incorporates Complainant’s trademark, with the addition of the letter “s” at the end of “courir” term. Panels typically consider that “It is well-established in UDRP precedent that a minor variation to a trade mark, such as the addition of a letter, is insufficient to avoid confusing similarity” (See Accor v. WhoisGuard Protected / james hemingway, WIPO case No. D2018-2942 referring to General Motors LLC v. Carol Schadt, WIPO Case No. D2012-2106).

Second, it is commonly established that the addition of a gTLD does not dispel likelihood of confusion. See for example Comerica Incorporated v. Fundacion Private Whois / PPA Media Services, WIPO case No. D2013-0930: “under the confusing similarity test of paragraph 4(a)(i) of the Policy, the addition of the “.com” generic Top-Level Domain is immaterial when considering the issue of confusing similarity between a complainant’s trade mark and a domain name”. Therefore, the addition of “.com” does not dispel the likelihood of confusion.

Panel finds that the disputed domain name is confusingly similar to Complainant’s trademark.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

B. No rights or legitimate interests

Complainant is required to make a prima facie case that Respondent lacks rights and legitimate interests in the disputed domain name. If the prima facie case is successful, then the burden of proof shifts to Respondent.

First, Complainant contends that it did not grant any authorization to Respondent to use its trademark, and that Respondent is not affiliated to it. Complainant has no activity or business in common with Respondent. Furthermore, it did not grant any license or authorization to Respondent. Thus, Complainant considers that Respondent has no right or legitimate interest to use its trademark.

Panel also finds that Respondent has no right or legitimate interests on the sign “COURIR” since it has no right nor authorization granted by Complainant.

Second, Complainant argues that the disputed domain name is a typosquatted version of its trademark. Indeed, the Panel notes that Complainant's official website is pointed to by the domain name <courir.com>. Furthermore, the disputed domain name is pointing to a website which does not have any relation to the term "courir". This clearly indicates it is a case of typosquatting. Panels previously considered that "Typosquatting is a further indication of a lack of rights or legitimate interest in Domain Name" (Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo, WIPO case No. D2019-1600).

Third, likelihood of confusion can easily occur when searching for Complainant's website, since there is only a single letter differing from Complainant and Respondent's domain names. The disputed domain name is pointing to a website offering shoes for sale, which are the same products offered by Complainant. Internet users may thus be initially drawn to competitor's products mistakenly believing them to be associated with Complainant.

Panel finds that Respondent lacks rights and legitimate interests in the disputed domain name. Respondent's use does not constitute a bona fide offering of goods and services nor a legitimate non-commercial or fair use.

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

C. Bad faith

Paragraph 4(a)(iii) of the Policy requires that a complainant show that a domain name has been registered and is being used in bad faith.

First, Complainant registered its official domain name many years ago, and has used the sign "COURIR" for many years and many times before Respondent registered the disputed domain name. Given the fact that Complainant is a French company, that the disputed domain name is in French, and that both sites are offering sport shoes for sale, Respondent could not have ignored Complainant's existence.

Furthermore, Respondent did not respond to Complainant's contentions. This lack of response is usually perceived by Panels as an indicative element of bad faith. See Statoil ASA v. Johnsons Associates, WIPO case No. D2015-0043: "the fact that no response to the Complaint has been filed indicate that the Respondent has registered and is using the disputed domain name in bad faith".

Panels finds that the disputed domain name has been registered in bad faith.

Second, Complainant argues that Respondent intentionally used Complainant's trademark "COURIR" to divert Internet users. Panels finds that registering a domain name <courirs.com> to point to a website which does not either use the sign COURIR nor refer to it illustrates bad faith and the intention to create a risk of confusion. Furthermore, the website pointed to by the disputed domain is a website of a competitor of Complainant.

Panels have previously found that "The Domain Name is being used to divert Internet users seeking the Complainants' website to the website of one of their competitors, thereby disrupting their business. The Panel finds that the Domain Name was registered primarily for this purpose, probably with the ulterior aim of sale to the Complainants for a profit" (River Light V, L.P., Tory Burch LLC v. Kung Chen Chang, PRIVATE, WIPO case No. D2018-0046).

Panels here finds that Respondent registered and is using the disputed domain name in 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

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be granted, without prejudice to a future judicial decision.

Accordingly, it is ordered that the disputed domain name be transferred from Respondent to Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **COURIRS.COM**: Transferred

PANELLISTS

Name	**Nathalie Dreyfus**

DATE OF PANEL DECISION 2019-10-31

Publish the Decision