Decision for dispute CAC-UDRP-102698

Case number	CAC-UDRP-102698
Time of filing	2019-10-02 11:51:11
Domain names	courirfrance.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	GROUPE COURIR

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Courirs - Chaussures en ligne

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

The Complainant is the owner of the following registered trademarks:

International registered trademarks:

COURIR, word mark, registered on September 25, 2007 under number 941035 in use classes 25 and 28 and designated in respect of 18 territories.

C COURIR, semi-figurative mark, registered on July 9, 2014 under number 1221963 in use class 35 and designated in respect of 23 territories.

European Union registered trademarks:

COURIR, figurative mark, registered on November 26, 2008 under number 6848881 in use classes 25 and 28.

COURIR, word mark, registered on March 7, 2019 under number 17257791 in use class 35.

FACTUAL BACKGROUND

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

The Complainant, Groupe Courir, has set a new benchmark for the sneaker fashion industry in recent years. Its COURIR branded stores are aimed at an urban clientele from 15 to 25 years old and feature a selection of sneakers, ready-to-wear and fashion accessories for men, women and children. In 2018, the Complainant had 188 such stores of its own, together with 50 affiliated stores, in France. The Complainant is also present internationally, having 27 stores located in Spain, Poland and in the Maghreb, the Middle East and overseas territories.

The Complainant is the owner of the COURIR trademarks together with a variety of domain names including its official domain name <courir.com>, registered since February 16, 1998.

The disputed domain name was created on September 29, 2019. It currently resolves to an online store which sells sports shoes in direct competition with the Complainant and displays the Complainant's COURIR trademark along with an email address using the Complainant's official domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent. The privacy policy on the website associated with the disputed domain name features the Complainant's figurative mark, underneath which the owner of the website is identified as "Europe.com BV", registered under the number 30181126. This number corresponds to the registered number of FOOT LOCKER Europe.com B.V., which is a competitor of the Complainant.

The disputed domain name is confusingly similar to the Complainant's COURIR trademark as it incorporates the trademark in its entirety. The addition of the geographic term "France" and the generic Top-Level Domain suffix ".com" are not sufficient to escape the finding that the domain name is confusingly similar to the Complainant's mark. It does not change the overall impression of the designation as being connected to the Complainant's mark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and associated domain names.

The Respondent has no rights or legitimate interests in the disputed domain name. Neither license nor authorization have been granted by the Complainant to the Respondent to make any use of the Complainant's COURIR trademark, or to apply for registration of the disputed domain name. 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 the Complainant. Using a confusingly similar domain name that resolves to a competing website is not a bona fide offering of goods or services. Furthermore, the "Retours" section of said website points to another website at the domain name <footlocker.eu> which is operated by one of the Complainant's competitors also specializing in sports shoes.

The Respondent registered and is using the disputed domain name in bad faith. The Respondent registered the disputed domain name long after the Complainant had established a strong reputation and goodwill in its COURIR mark. The geographic term in the disputed domain name refers to the Complainant as the Complainant is based in France. The associated website is written in French, sells similar goods and is in direct competition to the Complainant's business. The privacy page references the Complainant's mark. It is thus very unlikely that the Respondent did not know about the Complainant when it registered the disputed domain name.

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

The Panel is satisfied that the disputed domain name contains the Complainant's COURIR trademark in its entirety together with the geographic element "France". The addition of such term to the Complainant's mark does not avoid a finding of confusing similarity under the Policy. The Complainant's trademark is recognizable in the disputed domain name as the first and most dominant element thereof, and the additional geographic term does not distinguish the disputed domain name from such mark but rather compounds the confusing similarity as the Complainant is based and has major operations in France (see, similarly, Six Continents Hotels, Inc., Inter-Continental Hotels Corporation v. South East Asia Tours, WIPO Case No. D2004-0388). The generic Top-Level Domain, in this case ".com", is typically disregarded for the purposes of the comparison exercise.

The Panel is satisfied that the Complainant has established a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Complainant notes that it has not authorized or licensed the Respondent to use its marks or to register the disputed domain name. The Respondent has used the disputed domain name for a website in competition with that of the Complainant, which also appears in some respects to be impersonating the Complainant's business, namely in the use of one of the Complainant's email addresses and the display of part of the Complainant's semi-figurative trademark on the associated privacy page. This could not be described as use in connection with a bona fide offering of goods or services. Furthermore, there is no suggestion that the Respondent is using the disputed domain name exclusively to sell the Complainant's products or that any of the other fair use criteria described in Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No. D2001-0903 would apply in this case.

The Respondent failed to rebut the Complainant's prima facie case in that it did not file any Response. There are no surrounding facts or circumstances tending to show that the Respondent may otherwise have rights or legitimate interests in the disputed domain name. It is therefore reasonable in the circumstances for the Panel to find that that the Respondent has no such rights or legitimate interests therein.

The Panel is of the opinion that the Complainant has successfully made out a case of registration and use in bad faith in respect of the disputed domain name. The Complainant's trademark is the first and most dominant element of the disputed domain name. It has been coupled with the geographic term "France" which has a close association to the Complainant's business. The disputed domain name is confusingly similar to the Complainant's mark. The corresponding website, in the French language, offers competing products for sale and contains confusing messages suggesting that it might be affiliated or sponsored in some way by the Complainant. This particular use of the disputed domain name, arising long after the Complainant's rights were established, demonstrates to the Panel's satisfaction that the Respondent had knowledge of, and intent to target, the Complainant and its marks at the point of registration. In conclusion, the Panel finds it established that by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website in terms of paragraph 4(b)(iv) of the Policy.

The Respondent did not file any Response and thus did not advance any alternative explanation for the registration and use of the disputed domain name, nor can the Panel conceive of any such explanation on the facts and circumstances of this

case.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **COURIRFRANCE.COM**: Transferred

PANELLISTS

Name	**Andrew Lothian**

DATE OF PANEL DECISION 2019-11-08

Publish the Decision