Decision for dispute CAC-UDRP-102948

Case number	CAC-UDRP-102948
Time of filing	2020-03-11 10:22:24
Domain names	roland--garros.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	FEDERATION FRANCAISE DE TENNIS (FFT)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Osman Goni

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

Complainant states, and provides evidence to support, that it is “the owner of numerous trademarks containing the expression ‘ROLAND GARROS’, such as the international trademarks ROLAND GARROS n°459517 registered since 1981-04-01 and RG ROLAND GARROS registered since 2017-01-24.” These marks are referred to hereafter as the “ROLAND GARROS Trademark.”

FACTUAL BACKGROUND

Complainant states: “Founded in 1920, the FEDERATION FRANCAISE DE TENNIS (the Complainant) promotes, organizes and develops tennis in France. It counts about 978 893 licensees in 2019. The Complainant also provides representation of France in international meetings and organizes major tournaments such as the International of France at Roland Garros.

“The International of France of Roland Garros, also called ‘French Open’, is the biggest tournament of the tennis season on clay and the only Grand Slam still competing on that surface.”

The Disputed Domain Name was created on February 16, 2020, and is being used in connection with what Complainant

describes as “a Registrar parking page.”

Paragraph 4(a)(i): Complainant states, inter alia, that the Disputed Domain Name is confusingly similar to the ROLAND GARROS Trademark because “the addition of two dashes in the disputed domain name is not sufficient to avoid the likelihood of confusion.”

Paragraph 4(a)(ii): Complainant states that Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, “Respondent is not identified in the Whois database as the disputed domain name”; Complainant “does not carry out any activity for, nor has any business with the Respondent”; “[n]either license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark ROLAND GARROS, or apply for registration of the disputed domain name by the Complainant”; and “Respondent did not make any use of disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name.”

Paragraph 4(a)(iii): Complainant states that the Disputed Domain Name was registered and is being used in bad faith because, inter alia, “[p]ast Panels have held that the ROLAND GARROS trademark is well-known”; “a Google search on the expression ROLAND GARROS displays several results, all of them being related to the Complainant and the tournament”; “[g]iven the distinctiveness of the Complainant’s trademark and reputation, the Complainant can state that the Respondent has registered the disputed domain name with full knowledge of the Complainant’s trademark ROLAND GARROS®, and therefore could not ignore the Complainant”; and because “the disputed domain name resolves to a Registrar parking page… the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law.”

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 UDRP).

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 UDRP).

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 UDRP).

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

Identical or Confusingly Similar: Paragraph 4(a)(i):

Based upon the trademark registration cited by Complainant, it is apparent that Complainant has rights in and to the ROLAND GARROS Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the ROLAND GARROS Trademark, the relevant

comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., "roland--garros") because "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test." WIPO Overview of WIPO Overview 3.0, section 1.11.1.

Here, the Disputed Domain Name contains the ROLAND GARROS Trademark in its entirety, simply adding two dashes or hyphens between the two words in the Disputed Domain Name. As set forth in section 1.7 of WIPO Overview 3.0, "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing." Further, section 1.9 of WIPO Overview 3.0 states: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element." Finally, numerous panel have held that "punctuation marks such as hyphens cannot on their own avoid a finding of confusing similarity." Six Continents Hotels, Inc. v. Helen Siew, WIPO Case No. D2004-0656.

Accordingly, the Panel finds that Complainant has proven the first element of the UDRP.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states, inter alia, that "Respondent is not identified in the Whois database as the disputed domain name"; Complainant "does not carry out any activity for, nor has any business with the Respondent"; "[n]either license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark ROLAND GARROS®, or apply for registration of the disputed domain name by the Complainant"; and "Respondent did not make any use of disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name".

WIPO Overview 3.0, section 2.1, states: "While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the UDRP.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

Whether a domain name is registered and used in bad faith for purposes of the UDRP may be determined by evaluating four (non-exhaustive) factors set forth in paragraph 4(b) of the UDRP: (i) circumstances indicating that the registrant has registered or the registrant has 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 registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant 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 registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location.

WIPO Overview 3.0, section 3.1.4, states: "Panels have consistently found that the mere registration of a domain name that

is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith."

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ROLAND--GARROS.COM**: Transferred

PANELLISTS

Name	**Douglas M. Isenberg**

DATE OF PANEL DECISION 2020-04-06

Publish the Decision