# Decision for dispute CAC-UDRP-103287

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| Case number | CAC-UDRP-103287 |
| Time of filing | 2020-09-17 10:41:47 |
| Domain names | boycottrolandgarros.com |

## Case administrator

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| Name | Olga Slanařová (Case admin) |

## Complainant

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| Organization | FEDERATION FRANCAISE DE TENNIS (FFT) |

## Complainant representative

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| Organization | Nameshield (Enora Millocheau) |

## Respondent

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| Organization | LIFEMOND Internacional |

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns numerous trademarks containing the expression “ROLAND GARROS”, such as:
- the international trademark (word) no. 459717 “ROLAND GARROS” registered since 1 April 1981 in classes 18, 25, 28;
- the international trademark (device) no. 1370730 “RG ROLAND GARROS” registered since 24 January 2017 in classes 3, 4, 7, 8, 9, 12, 14, 16, 18, 20, 21, 22, 24, 25, 26, 27, 28, 35, 38, 41.

The Complainant also owns several domain names containing the expression “ROLAND GARROS”, such as:
- rolandgarros.com registered since 21 April 1999;
- roland-garros.com registered since 22 April 1997.

The Complainant has proved its rights in the ROLAND GARROS trademark for the purposes of the Policy.

FACTUAL BACKGROUND

The Complainant was founded in 1920 and has promoted, organized and developed tennis in France. In 2019 it counted about 978 893 licensees.

The Complainant also provides representation of France in international meetings and organizes major tournaments such as the International of France at Roland Garros, also called “French Open”. The International of France at Roland Garros is the biggest tournament of the tennis season on clay and the only Grand Slam still competing on such surface.

The disputed domain name was registered on 7 September 2020 by a Brazilian corporation, LIFEMOND Internacional, and resolves to a parking page with commercial links (some of which are related to other well-known international tournaments).

The facts asserted by the Complainant are not contested by the Respondent.

PARTIES CONTENTIONS

COMPLAINANT’S CONTENTIONS

The Complainant contends that the disputed domain name is confusingly similar to its trademark. Neither the addition of the generic term “BOYCOTT” to the Complainant's trademark, nor the use of the TLD “.COM” are sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant’s trademark or change the overall impression of the designation as being connected to such mark.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant affirms that the Respondent 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. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark, or apply for registration of the disputed domain name by the Complainant.

The Complainant finally contends that the registration of the disputed domain name, confusingly similar to the Complainant's well-known trademark and, thus, the constructive knowledge on behalf of the Respondent of the Complainant’s potential rights, as well as the use of the disputed domain name for a parking page with commercial links, clearly shows the Respondent’s bad faith both in the registration and in the use of the disputed domain name.

The Complainant, therefore, requests the transfer of the disputed domain name.

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 requires the Complainant to prove each of the following three elements to obtain the transfer or the cancellation of the domain name:
(1) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the 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.

1. THE COMPLAINANT'S RIGHTS AND CONFUSING SIMILARITY OF THE DISPUTED DOMAIN NAME TO THE COMPLAINANT'S MARK

The Complainant has provided sufficient documentary evidences to demonstrate to be owner of the ROLAND GARROS trademark since 1981.

In assessing identity or confusing similarity the Panel finds that the disputed domain name incorporates the entirety of the Complainant's ROLAND GARROS trademark and differs from such mark by merely adding the generic term "BOYCOTT" and the top-level domain name ".COM".

Thus, the disputed domain name is confusingly similar to the Complainant's trademark.

In UDRP cases where the relevant trademark is recognizable within the disputed domain name, Panels agree that the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (see paragraph 1.7 WIPO Overview 3.0).

UDRP Panels also agree that the top-level domain is usually to be ignored for the purpose of determination of identity or confusing similarity between the disputed domain name and the Complainant's trademark as it is a technical requirement of registration (see paragraph 1.11.1 WIPO Overview 3.0).

Hence, this Panel finds that the Complainant has proven the first element of paragraph 4(a) of the Policy and the disputed domain name is confusingly similar to the Complainant's mark.

2. THE RESPONDENT'S LACK OF RIGHTS OR LEGITIMATE INTERESTS TO THE DISPUTED DOMAIN NAME

It is a consensus view of UDRP Panels that the Complainant shall establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name to shift the burden of proof to the Respondent (see paragraph 2.1 of the WIPO Overview 3.0: "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 Complainant contends to have no relationship whatsoever with the Respondent. The Respondent has never received any approval of the Complainant, expressed or implied, to use the Complainant's trademark or to register and use the disputed domain name.

The disputed domain name was registered on 7 September 2020 by a Brazilian corporation, LIFEMOND Internacional. Therefore, there is no evidence that the Respondent has been commonly known by the disputed domain name.

The disputed domain name is not used for a gripe site, but instead it resolves to a parking page with commercial links, some of which are related to other well-known international tournaments. Such use of the disputed domain name is clearly not a legitimate noncommercial or fair use, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's mark.

Applying paragraph 4(c) of the Policy, UDRP Panels have found that the use of a domain name to host a parked page

comprising pay-per-click links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's (or its competitor's) mark or otherwise mislead Internet users (see paragraph 2.9 WIPO Overview 3.0).

While the Complainant has established its prima facie case, the Respondent has not submitted a Response to the Complaint and, thus, has failed to invoke any of the circumstances, which could demonstrate any rights or legitimate interests in the disputed domain name.

Therefore, the Panel is satisfied that the Complainant has met the second requirement of paragraph 4(a) of the Policy and finds that the Respondent lacks rights or legitimate interests to the disputed domain name.

3. BAD FAITH REGISTRATION AND USE OF THE DISPUTED DOMAIN NAME

The Respondent has registered the disputed domain name which is to be considered confusingly similar to Complainant's mark, since it incorporates the ROLAND GARROS trademark in its entirety and differs from it merely by adding the generic term "BOYCOTT" and the TLD ".COM" (which is disregarded for the purpose of determination of confusing similarity between the disputed domain name and the trademark of the Complainant as it is a technical requirement of registration).

Given the distinctiveness and reputation of the Complainant's prior mark (see inter alia WIPO Case No. D2017-1045, Federation Francaise De Tennis (FFT) v. WhoisGuard Protected, WhoisGuard, Inc. / Md Rubel Hossain "The French Open tournament and its venue at the Roland Garros Stadium have been widely publicised in print, radio and television media throughout the world. The trade marks FRENCH OPEN and ROLAND GARROS are not names which would be likely to be chosen at random and without an intended reference to the Complainant's trade marks. It is not credible therefore that the Respondent might innocently have chosen to register any of the disputed domain names."; CAC Case No. 101242, Federation Francaise De Tennis (FFT) v. Real James "Given the reputation of the Complainant's trademark, it seems implausible that the Respondent did not have such trademark in mind when registering the disputed domain name."), it is inconceivable that the Respondent could have registered the disputed domain name for a mere chance without actual knowledge of the Complainant's rights in such well-known mark and the intention to exploit such reputation by diverting traffic away from the Complainant's website.

The Complainant has also submitted the results of a Google search on the term "ROLAND GARROS", all of them related to the Complainant, and affirmed that due to the distinctiveness and reputation of the Complainant's mark worldwide the Respondent registered the disputed domain name with full knowledge of the Complainant's mark.

Furthermore, this Panel finds that the timing of the registration of the disputed domain name shortly before the beginning of this year's tournament is an additional element suggesting that the Respondent targeted the Complainant when it registered the disputed domain name.

As mentioned earlier, the disputed domain name is not used for a gripe site, but instead it resolves to a parking page with commercial links, some of which are related to other well-known international tournaments.

Regarding pay-per-click links, particularly with respect to automatically generated links, UDRP Panels have held that a respondent cannot disclaim responsibility for the content appearing on the website associated with its domain name. Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith (see paragraph 3.5 WIPO Overview 3.0).

Therefore, considered that the disputed domain name:
- is confusingly similar to the Complainant's earlier and well-known ROLAND GARROS trademark;
- has been registered shortly before the beginning of this year's tournament;
- is not used for a gripe site, but instead it resolves to a parking page with commercial links, some of which are related to other well-known international tournaments;

the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant and its mark (paragraph 4(b)(iv) of the Policy).

Taken into account all circumstances of this case, the Panel finds that the Complainant has discharged the burden of proof to show that the disputed domain name has been registered and is being used in bad faith (paragraph 4(a)(iii) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOYCOTTROLANDGARROS.COM**: Transferred

## PANELLISTS

| Name | **Avv. Ivett Paulovics** |
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DATE OF PANEL DECISION 2020-10-08

Publish the Decision