Decision for dispute CAC-UDRP-103440

Case number	CAC-UDRP-103440
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Domain names	ratplogistics.com

Case administrator

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

Complainant

Organization	REGIE AUTONOME DES TRANSPORTS PARISIENS (RATP)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	faruk sayan

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 a portfolio of trademark registrations for the RATP and RATP LOGISTICS service marks including:

• European trademark RATP, registration number 008945966 registered on 31 January 2011 for goods and services in classes 6,7,8. 9, 11, 12, 14, 16, 18, 19, 20, 21, 24, 25, 27, 28,30, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43,45; and

• International trademark RATP, registration number 1091607 registered on 9 March 2011 for goods and services in classes 9, 12, 37, 38, 39, 41 and 42;

• French registered trademark RATP LOGISTICS, registration number 4630972, registered on 9 March 2020 for services in classes 35, 36 and 39;

• French registered trademark RATP LOGISTICS (stylised), registration number 4631060 registered since on 9 March 2020 for services in classes 35, 36 and 39.

FACTUAL BACKGROUND

FACTUAL BACKGROUND

The Complainant is a public transport operator and uses the RATP and RATP LOGISTICS service marks for its services including the design, operation and maintenance of metro, rail, bus and tramway networks.

The Complainant has an established Internet presence, owing several domain names incorporating its RATP mark including <ratp.fr> which it has used as its website address since it was registered on 1 January 1995 and <ratp.com> which it has used since 28 January 1999.

The date of publication of both of the Complainant's said French registered trademarks RATP LOGISTICS registration number 4630972 and RATP LOGISTICS (stylised), registration number 4631060 was 3 April 2020.

The disputed domain name <ratplogistics.com> was registered on 4 April 2020 and resolves to a SEDO page on which it is offered for sale to the public for the sum of USD $988.

There is no information available about the Respondent except for that provided in the Complaint, WhoIs and the Registrar's WhoIs, including the information disclosed by the Registrar in response to the request for verification of the registration details of the disputed domain name in the course of this proceeding, which disclosed the Respondent's identity. The Respondent is the registrant of the disputed domain name and has availed of a privacy service to conceal his identity on the published WhoIs.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant relies on its rights in the RATP mark acquired through its ownership of the abovementioned portfolio of trademarks. Additionally, the Complainant submits that since 1949, it has used the RATP mark in the Île-de-France region and around the world, via its numerous subsidiaries. Providing travellers with 16 million daily journeys on its services, the Complainant claims to be the fifth largest public transport operator in the world.

The Complainant alleges that the disputed domain name <ratplogistics.com> is identical to its trademark RATP LOGISTICS as it includes the Complainant's trademark in its entirety without any adjunction of letter or word.

The Complainant adds that it is well established that the generic Top Level Domain ("gTLD") extension <.com> should be disregarded for the purposes of comparison. Citing F. Hoffmann-La Roche AG v. Macalve e-dominios S.A. WIPO Case No. D2006-0451 ("It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.").

The Complainant submits that the Respondent has no rights or legitimate interest in the disputed domain name.

The Complainant asserts that the Respondent is not commonly known by the disputed domain name and submits that past panels have held that a respondent was not commonly known by a disputed domain name in circumstances where the registrant's identity in the WHOIS information was not similar to the disputed domain name. Citing Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group NAF Case No. FA 1781783, <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii).").

The Complainant further asserts that the Respondent is neither affiliated with nor authorized by the Complainant in any way; and that the Complainant does not carry out any activity for, nor has any business with the Respondent.

The Complainant adds that it has not granted any license or authorization to the Respondent to make any use of the Complainant's trademarks RATP and RATP LOGISTICS, or to apply for registration of the disputed domain name.

The Complainant refers to a screenshot of the SEDO page to which the disputed domain name resolves on which the disputed domain name is offered for sale for USD$ 988 USD. The Complainant contends that this general offer to sell the disputed domain name evidences the Respondent's lack of rights or legitimate interest. Citing Enterprise Holdings, Inc. v. Webmaster & Support Forum Case No. 1562569 ("A general solicitation to sell a disputed domain name provides further evidence of a respondent's lack of rights and legitimate interests in a disputed domain name. […] Therefore, the Panel finds that Respondent's willingness to sell the <wwenterprise.us> domain name is credible evidence that Respondent lacked rights and legitimate interests in the disputed domain name pursuant to Policy 4(a)(ii).").

The Complainant submits that as it has made out a prima facie case that the Respondent has no right or legitimate interest in respect of the disputed domain name and argues that in such circumstances, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. It is submitted that the Respondent has failed so to do, and so the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. Citing Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith.

The Complainant submits that the registrant must have been aware of its well-established and highly distinctive RATP mark when the disputed domain name was registered on 4 April 2020. The registration took place on the day following the publication of the registration of the Complainant's RATP LOGISTICS trademark.

The Complainant submits that past panels established under the Policy have held that its RATP trademark is well-established and highly distinctive. Citing for example Regie Autonome Des Transports Parisiens (RATP) v. Sena yilmaz CAC Case No. 102119, ("The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark [RATP] as the Trademark is highly distinctive and well-established"); and Regie Autonome Des Transports Parisiens (RATP) v. petek sarigul CAC Case No. 102121 ("The Panel believes that Respondent registered the Disputed domain name with knowledge of Complainant's rights. The Disputed domain name was registered more than seven years after the registration of the trademarks and more than a decade after the domain names of the Complainant and Complainant used it widely since then.").

The Complainant further alleges that the Respondent is not making an active use of the disputed domain name as it resolves to a SEDO page displaying a general offer to sell the domain name for USD €988. The Complainant submits that past panels have held that failure to actively use a domain name is evidence of bad faith registration and use. Citing Airbnb, Inc. v. khaled salem, Forum Case No. FA 1784212, ("Complainant argues that Respondent diverts traffic to a parked website used to offer the disputed domain name for sale, in bad faith under Policy 4(a)(iii). The Panel agrees and finds that Respondent's failure to actively use the disputed domain name demonstrates bad faith per Policy 4(a)(iii).").

The Complainant adds that the registration of the disputed domain name for the purposes of resale and subsequent failure to put the disputed domain name to any active use but to offer for sale generally to the public is evidence of bad faith registration and use under the Policy. Citing Citigroup Inc. v. Kevin Goodman Forum Case No. FA 1623939, ("Respondent offered the <citi.club> domain name for sale or lease at prices well above even its alleged but unverified acquisition costs. […] Therefore, the evidence shows that Respondent registered <citi.club> primarily for the purpose of transferring it for a profit and demonstrates Respondent's bad faith registration and use of the <citi.club> domain name pursuant to Policy 4(b)(i)."). and Enterprise Holdings, Inc. v. Webmaster & Support Forum Case No. 1562569, ("A general solicitation to sell a disputed domain name provides further evidence of a respondent's lack of rights and legitimate interests in a disputed domain name. […] Therefore, the Panel finds that Respondent's willingness to sell the <wwenterprise.us> domain name is credible evidence that Respondent lacked rights and legitimate interests in the disputed domain name pursuant to Policy 4(a)(ii)."); and Airbnb, Inc. v. khaled salem Forum Case No. FA 1784212 ("Complainant argues that Respondent diverts traffic to a parked website used to offer the disputed domain name for sale, in bad faith under Policy 4(a)(iii). The Panel agrees and finds that Respondent's failure to actively use the disputed domain name demonstrates bad faith per Policy 4(a)(iii).").

RESPONDENT:

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 Complainant has adduced clear, convincing and uncontested evidence that it has rights in the RATP and RATP LOGISTICS trademarks acquired through its ownership of the abovementioned registered trademarks and its substantial use of both and in particular its long use of the RATP mark since 1949.

The disputed domain name consists of the RATP LOGISTICS mark in its entirety and Complainant's RATP mark is its initial and dominant and distinctive element. The gTLD <.com> extension may be ignored for the purposes of comparison because in the circumstances of this case it would on the balance of probabilities be considered as a necessary technical element for a domain name.

This Panel finds therefore that the disputed domain name is identical to the trademark RATP LOGISTICS and confusingly similar to the trademark a RATP, in which the Complainant has rights.

The Complainant has therefore succeeded in the first element of the test in paragraph 4(a)(i) of the Policy.

The Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name alleging, that:

- the Respondent is not commonly known by the disputed domain name;

- 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;

- the Complainant has not granted any license or authorization to the Respondent to make any use of the Complainant's

RATP and RATP LOGISTICS trademarks, or to apply for registration of the disputed domain name;

- the screenshot of the webpage to which the disputed domain name resolves shows that the Respondent is not putting the disputed domain name to any active use but instead it resolves to a SEDO page on which the disputed domain name is offered for sale to the public for USD$ 988; and

- this general offer to sell the disputed domain name evidences the Respondent's lack of rights or legitimate interests in the disputed domain name.

As the Complainant submits that it is well established that in such circumstances, where a complainant makes out a prima facie case, the burden of production shifts to the respondent demonstrate that it has rights or legitimate interests in the domain name at issue.

The Respondent has failed to discharge the burden of production and therefore this Panel must find that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has therefore satisfied the second element of the test in paragraph 4(a)(ii) of the Policy.

The disputed domain name is not only confusingly similar to the Complainant's RATP mark, it is identical to the RATP LOGISTICS mark. It must be much more than a coincidence that the disputed domain name was registered on 4 April 2020, which was the day following the publication of the registration of the trademark RATP LOGISTICS by the Complainant.

Given the long, strong and extensive reputation of the Complainant's RAPT mark and the registration of the disputed domain name immediately following the publication of the RAPT LOGISTICS trademark it is most improbable that the registrant of the disputed domain name was unaware of the Complainant, its trademark and reputation. On the balance of probabilities the disputed domain name was registered in order to take predatory advantage of the Complainant's goodwill and reputation of the RATP and RATP LOGISTICS mark.

The Complainant has shown that the disputed domain name does not resolve to any active website but instead is being passively held and offered for sale to the public.

This Panel finds that that the evidence shows that the disputed domain name was registered or acquired by the Respondent primarily for the purpose of selling, the disputed domain name for profit.

Furthermore, looking at the totality of the circumstances in this case, and in particular the degree of distinctiveness and long-established reputation of the Complainant's RAPT mark, the Respondent's failure to submit a response or to provide any evidence of actual or contemplated good-faith use of the disputed domain name, the Respondent's concealment of his identity on the published WhoIs by availing of a privacy service, and that the disputed domain name was registered on the day following the publication of the registration of the Complainant's RAPT LOGISTICS mark, this Panel finds that on the balance of probabilities the Complainant's passive holding of the disputed domain name and its general offer for sale, constitutes bad faith registration and use for the purposes of the Policy.

The Complainant has therefore succeeded in the third and final element of the test in 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. **RATPLOGISTICS.COM**: Transferred

PANELLISTS

Name	**Mr James Jude Bridgeman**

DATE OF PANEL DECISION 2021-01-04

Publish the Decision