

**Decision for dispute CAC-UDRP-103586**

Case number	<b>CAC-UDRP-103586</b>
Time of filing	<b>2021-02-17 09:42:27</b>
Domain names	<b>rolandgarrosshop.com</b>

**Case administrator**

Organization	<b>Iveta Špiclová (Czech Arbitration Court) (Case admin)</b>
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**Complainant**

Organization	<b>FEDERATION FRANCAISE DE TENNIS (FFT)</b>
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**Complainant representative**

Organization	<b>Nameshield (Enora Millocheau)</b>
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**Respondent**

Organization	<b>Fundacion Comercio Electronico</b>
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## 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 submitted evidence that it is the registered owner of the following trademarks:

- international registration No. 459517 for “ROLAND GARROS” (word), registered since April 1, 1981 for classes 18, 25 and 28, which has been designated for numerous countries around the world; and

- international registration No. 1370730 for “RG ROLAND GARROS” (device), registered since January 24, 2017 for classes 3, 4, 7, 8, 9, 12, 14, 16, 18, 20, 21, 22, 24, 25, 26, 27, 28, 35, 38 and 41, which has been designated for numerous countries around the world.

The Complainant also provided information, supported by evidence, that it is the registered holder of the domain names <rolandgarros.com> registered since April 22, 1999, and <roland-garros.com> registered since April 22, 1997.

## FACTUAL BACKGROUND

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

The Complainant was founded in 1920 and it promotes, organizes and develops tennis in France. It counted nearly 1 million 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 <rolandgarrosshop.com> was registered on February 11, 2021 and resolves to a parking page with commercial links.

The Registrar confirmed that the Respondent is the current registrant of the disputed domain name and that the language of the registration agreement is English.

The Respondent has not filed any Response.

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#### PARTIES CONTENTIONS

##### NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant made the following contentions:

The Complainant states that the disputed domain name is confusingly similar to its trademark “ROLAND GARROS”.

The addition of the term “SHOP” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant’s trademark. It does not change the overall impression of the designation as being connected to the Complainant’s trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and domain names associated.

It is well-established that “a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP”. Moreover, the Complainant asserts that the addition of the generic Top-Level Domain suffix “.COM” does not change the overall impression of the designation as being connected to the Complainant’s trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademarks and its domain names associated.

The Complainant points to established decisions of earlier panels and states that previous panels confirmed the Complainant’s rights over the expression “ROLAND GARROS” in CAC Case No. 103323 <rolandgarros.online>; CAC Case No. 103268 <roland-garros.club> and <roland-garros.online>; WIPO Case No. D2017-1045 <2017rolandgarros.org> and others.

Thus, the Complainant concludes that the disputed domain name is confusingly similar to the Complainant’s trademark “ROLAND GARROS”.

Regarding the Respondent’s rights or legitimate interests, the Complainant points to the decision in the WIPO case No. D2003-0455, according to which the complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests and once such prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Complainant asserts that the Respondent is not identified in the WHOIS database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name. In support of its arguments, the Complainant refers to Forum Case No. FA 1781783 in which the panel found that the respondent was not commonly known by the disputed domain name under paragraph 4(c)(ii) of the UDRP.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and he is not related in any way with the Complainant. 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 "ROLAND GARROS", or apply for registration of the disputed domain name by the Complainant.

The disputed domain name resolves to a parking page with commercial links. Past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use. The Complainant refers especially to Forum Case No. FA 970871 and WIPO Case No. D2007-1695 to support its argument.

Thus, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

Turning to the bad faith argument, the Complainant asserts that the disputed domain name is confusingly similar with the Complainant's trademark. The Complainant points out that past panels have held that the "ROLAND GARROS" trademark is well-known (e.g. WIPO Case No. D2017-1045 and CAC Case No. 101242). Besides, the Complainant argues that a Google search on the expression "ROLAND GARROS" displays several results, all of them being related to the Complainant and the tournament.

Consequently, given the distinctiveness of the Complainant's trademarks and its reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark.

Moreover, the disputed domain name resolves to a parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks for its own commercial gain, which is evidence of bad faith. The Complainant quotes WIPO Case No. D2018-0497 to support its argument.

Finally, the Respondent has already been involved in numerous UDRP cases, which evidences the Respondent's pattern of conduct. The Complainant points especially to WIPO Case No. D2020-3183 and CAC Case No. 103453.

Consequently, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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#### 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).

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#### 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).

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#### 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).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

This is a mandatory administrative proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and the CAC Supplemental Rules.

Paragraph 15 of the Rules provides that the Panel shall decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

According to Paragraph 4(a) of the Policy, the Complainant must prove each of the following: (i) the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) the Respondent has no rights or legitimate interests in respect of the domain name; (iii) the domain name has been registered and is being used in bad faith.

#### A. Identical or confusingly similar domain name

The Complainant demonstrated that it owns the asserted international trademark registration for the word "ROLAND GARROS" which was registered almost 40 years earlier than the disputed domain name. It is well established that a nationally or regionally registered trademark confers on its owner sufficient rights to satisfy the requirement of having trademark rights for the purposes of standing to file a UDRP case. Therefore, the Panel finds that the Complainant has established such rights.

It is also well established that the generic top-level suffix .com may be disregarded when considering whether a disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights, as it is a necessary technical requirement of a domain name.

The disputed domain name incorporates the Complainant's trademark in its entirety. The adding of the word "SHOP" after the Complainant's trademark must be considered insufficient to prevent or diminish confusing similarity. This is true especially given that "SHOP" is a generic word that is widely understood not only by English language speakers and, as such, bears no distinctive character. This finding is consistent with earlier decisions of CAC (eg. CAC Case No. 100259 and CAC Case No. 101304).

The Panel, therefore, finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights.

#### B. Lack of rights or legitimate interests

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not in any way connected with the Complainant nor is it authorized to use the Complainant's trademark for its commercial activities. In addition, the Respondent is not commonly known by the disputed domain name pursuant to Paragraph 4(c)(ii) of the Policy. Furthermore, it was demonstrated by evidence submitted by the Complainant that the disputed domain name has not been used for a bona fide offering of goods or services or a legitimate non-commercial or fair use, particularly because it redirects to a parking page with commercial links (at least at the time of making the Complaint).

The Panel, therefore, finds that the Respondent has no rights or legitimate interest in the disputed domain name.

#### C. Registration and use of the disputed domain name in bad faith

With respect to the bad faith argument, the Panel has already found that the domain name is confusingly similar to the Complainant's trademark "ROLAND GARROS". The Complainant submitted evidence that the Panel believes sufficiently

demonstrates the Respondent must have or at least should have been aware of the existence of the Complainant, its well-known trademark and its domain names <rolandgarros.com> and <roland-garros.com>.

It is well established that mere registration of a domain name that is confusingly similar to a trademark by an unaffiliated entity can lead to the presumption of bad faith. Furthermore, typical circumstances demonstrating respondent's bad faith include a situation where 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 trademark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location (see Paragraph 4(b)(iv) of the Policy).

Taking into account the above-described facts and evidence submitted by the Complainant, the Panel concludes that there is (i) high degree of similarity between the disputed domain name and the Complainant's trademark; (ii) absence of rights or legitimate interests coupled with no response to Complaint with conceivable or credible explanations of the Respondent's conduct; and (iii) the website operated on the disputed domain name contains commercial links, ultimately and most likely to a commercial gain of the Respondent. Furthermore, the Panel has taken notice of the other UDRP cases involving the Respondent which are mentioned in the Complaint. Of its own motion and experience, this Panel is aware of many recent decisions concerning the Respondent. The Panel can safely conclude that the Respondent is a "repeat offender" and has clearly been engaged in a pattern of conduct of registering domain names containing other persons' trademarks.

Therefore, the Panel believes there is no doubt that the disputed domain name has been registered and has been used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ROLANDGARROSSHOP.COM**: Transferred

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## PANELLISTS

Name	<b>Mgr. Vojtěch Chloupek</b>
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DATE OF PANEL DECISION 2021-03-13

Publish the Decision

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