

Decision for dispute CAC-UDRP-104038

Case number CAC-UDRP-104038

Time of filing 2021-09-30 09:04:03

Domain names modulealgeco.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization ALGECO

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Amina ouarda Hachemi

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 - among others - the owner of the international trademark registrations Nos. 386452 and 1099894 since 1972 and also of the domain name <algeco.com> since 1997.

FACTUAL BACKGROUND

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

The Complainant is a company established in the early 1950's, which provides to the public modular space and secure storage solutions for businesses and public sector agencies through the trademark ALGECO since decades.

The Respondent has registered the disputed domain name <modulealgeco.com> on September 7, 2021. Such domain consists of the name ALGECO together with the generic term "module".

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name and is not related in any way with the Complainant's business. The Respondent is not affiliated with ALGECO, nor authorized

by such company in any way. In addition, the Complainant affirms it currently 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, or apply for registration of the disputed domain name by the Complainant.

The Complainant contends that the disputed domain name has been registered and being used in bad faith, in order to attract Internet users to Respondent's website.

The disputed domain name points to a parking page with no specific contents and the Respondent did not provide any explanation concerning the registration (and the passive use) of 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

1. The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to the Complainant's trademarks (within the meaning of paragraph 4(a)(i) of the Policy). In particular, the Panel finds that the disputed domain name is identical to the Complainant's trademark ALGECO.

In this regard, it shall be reminded how several previous UDRP panels have held that the addition of a generic term associated to a trademark does not create a new or different right to the mark, nor diminish confusing similarity.

On the contrary, given the business field in which the Complainant operates, the presence of the generic term "module" in <modulealgeco.com> even increases the risk of confusion for consumers, as they might believe that Respondent is somehow affiliated with Complainant and/or Respondent is somehow doing business using Complainant's trademark.

2. 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).

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent, which did not file any Response to the complaint of Algeco.

As a matter of fact, there are no arguments why the Respondent could have own rights or legitimate interests in the disputed domain name. ALGECO definitely is a distinctive sign used by the Complainant as business name and trademark in order to denote its products and services. Therefore, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in the disputed domain name.

3. The Complainant has, to the satisfaction of the Panel, shown the disputed domain name to have been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

As stated above, the Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent.

In the absence of a Response and given the reputation of the Complainant and its trademarks, the Panel infers that the Respondent had the Complainant's trademarks ALGECO in mind when registering the disputed domain name.

As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use (WIPO - D2000-0003 - Telstra Corporation Limited v. Nuclear Marshmallows and WIPO - D2000-0400 - CBS Broadcasting, Inc. v. Dennis Toeppen).

Consequently, the Panel believes that the same was registered and is being (passively) used in bad faith by Amina ouarda, in order to prevent the Complainant from reflecting the mark in the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **MODULEALGECO.COM**: Transferred

PANELLISTS

Name	Tommaso La Scala
------	------------------

DATE OF PANEL DECISION 2021-11-03

Publish the Decision
