Decision for dispute CAC-UDRP-100813

Case number	CAC-UDRP-100813
Time of filing	2014-06-09 10:37:37
Domain names	ASMONACO.COM

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	ASSOCIATION SPORTIVE MONACO FOOTBALL CLUB

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Dr Pierre de Kerangal

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

Complainant is the owner of several trademarks, including the international trademark ASM MONACO, registered with WIPO on May 4, 1995 with registration number 635731, and the European Community trademark AS MONACO FC, registered with the OHIM on April 26, 2006 with registration number 004410312.

FACTUAL BACKGROUND

According to the information provided by Complainant the Association Sportive de Monaco Football Club (also referred to as AS Monaco or simply Monaco) is a French Monaco-based football club. The club was founded in 1924 and plays in the French football Ligue 1.

Complainant is the owner of several trademarks, including the international trademark ASM MONACO, registered with WIPO on May 4, 1995 with registration number 635731, and the European Community trademark AS MONACO FC, registered with the OHIM on April 26, 2006 with registration number 004410312.

The disputed domain name <asmonaco.com> displays information related to Complainant and redirects to the official website of Complainant. The disputed domain name was registered on May 25, 1998.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

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

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name as the website under the disputed domain name is being used to redirect users to the website of Complainant while Respondent is not related in any way with the business of Complainant.

According to Complainant the disputed domain name is registered in bad faith. Given the distinctiveness of Complainant's trademark and its reputation, it is reasonable to infer that Respondent has registered the disputed domain name with full knowledge of Complainant's trademarks. The disputed domain name corresponds directly to Complainant's well-known mark, and circumstances indicate that Respondent was aware of that mark since Respondent redirects the disputed domain name to Complainant's website. Such use constitutes bad faith as it deprives Complainant of control of the domain name, and the domain name could be used by the Respondent to profit illegitimately from Complainant's mark. According to Complainant the disputed domain name could be used by Respondent to profit illegitimately from Complainant's mark as the sole purpose for its registration was and is to trick users into believing that they have arrived at a site which is owned by or associated with a reputable company i.e. Complainant.

RESPONDENT:

Respondent did not file a response.

RIGHTS

Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

Complainant has, to the satisfaction of the Panel, shown the 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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademarks pursuant to paragraph 4 (a)(i) of the Policy. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark or the principal part thereof in its entirety. The international WIPO trademark of Complainant predates by several years the registration date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use any of its trademarks or to register the disputed domain name incorporating its marks. Respondent is not making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the Domain Name nor has it acquired trademark rights. Complainant has no relationship with Respondent.

Respondent did not submit any response. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name name pursuant to paragraph 4(a)(ii) of the Policy.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. The trademarks of Complainant exist for a long time. Respondent knew or should have known that the disputed domain name included Complainant's well-known trademarks. The Panel notes that the website at the disputed domain name currently redirects users to the website of Complainant. However, such passive holding of the website does not prevent the Panel from finding registration and use in bad faith. The Panel further notes that Respondent undeveloped use of the website at the disputed domain name which incorporates Complainant's trademarks in its entirety indicates that Respondent possibly registered the Disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, as per paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ASMONACO.COM**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2014-07-14

Publish the Decision