Decision for dispute CAC-UDRP-101242

Case number	CAC-UDRP-101242
Time of filing	2016-07-12 10:13:18
Domain names	ROLANDGARROSDIRECT.COM

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	FEDERATION FRANCAISE DE TENNIS (FFT)

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	Real James

OTHER LEGAL PROCEEDINGS

The Panel is not aware of another pending or decided legal proceeding which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has trademark rights for the sign « ROLAND GARROS ». For the purposes of this proceeding, the Complainant relies on the following trademarks:

- Indian trademark « ROLAND GARROS », registered on January 18, 1991 under the number 543829, duly renewed and covering goods in class 18;
- International Trademark « ROLAND GARROS », registered on April 1, 1981 under the number 459517, duly renewed and designating goods in classes 18, 25 and 28;
- European Union Trademark « ROLAND GARROS FRENCH OPEN », registered on January 12, 2006 under the number 003498276, duly renewed and covering goods and services in classes 3, 6, 9, 12, 14, 16, 18, 24, 25, 28, 30, 32, 33, 35, 36, 37, 38, 39, 41, 42 and 43.

FACTUAL BACKGROUND

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

The Complainant also defending its trademarks against cybersquatting, in several previous UDRP cases, including:

- WIPO Case No. DCO2011-0005, Federation Française De Tennis (Fft) v. , <rolandgarros.co>;
- WIPO Case No. D2011-0813, Fédération Française de Tennis (FFT) v. Satoshi Shimoshita, <rolandgarros.net>;
- WIPO Case No. D2013-2022, Fédération Française de Tennis (FFT) v. Duncan Knight, <rolandgarrostickets.com>;
- WIPO Case No. D2016-0550, Fédération Française de Tennis (FFT) v. Bajirao Mastani, <rolandgarros2016schedule.com>;
- WIPO - D2013-2024 - Fédération Française De Tennis (FFT) v. Ticketfinders International LLC / Michael Cook;
- WIPO - D2013-2021 - Fédération Française De Tennis (FFT) v. Versio, VERSIO.NL Domein Registratie.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant claims that the disputed domain name is confusingly similar to the Complainant's trademark. Indeed, the disputed domain name includes the Complainant's trademark ROLAND GARROS in its entirety. Further, the addition of the generic term « direct » at the end of the disputed domain name and the generic top level domain <.com> are not sufficient elements to escape the finding that the domain name is confusingly similar to the Complainant's trademark.

The Complainant also alleges that the Respondent has no rights or legitimate interest in respect of the disputed domain name. The Complainant has not authorized, licensed nor otherwise permitted the Respondent to use the trademark ROLAND GARROS. Besides, the disputed domain names resolves to a parking page containing pay-per-click links suggesting that the Respondent would like to propose live streaming of the Roland Garros tournament.

Finally, the Complainant argues that the Respondent has registered and has been using the domain name in bad faith. The Complainant invokes the high distinctiveness of its trademark and reputation to determine that the Respondent had full knowledge of the trademark ROLAND GARROS when registering the domain name.

The Complainant also raises the fact that the domain name is used to attract Internet users in order to generate pay-per-click links or other advertising revenue by creating a likelihood of confusion with the Complainant's trademark.

Therefore, the Complainant requests that the disputed domain name be transferred to the Complainant.

RESPONDENT:

The Respondent did not respond to the complaint and is therefore in default.

RIGHTS

The Complainant has demonstrated that it owns valid ROLAND GARROS trademarks, registered throughout the world.

These trademarks are also reflected through the registration and use of domain names by the Complainant, such as <rolandgarros.com>.

In the present case, the disputed domain name <rolandgarrosdirect.com> fully incorporates the Complainant's trademark ROLAND GARROS.

Previous UDRP Panels have held that when a domain name incorporates entirely a complainant's registered trademark, that this fact may be sufficient to establish confusing similarity with purpose of the Policy (see eg. RapidShare AG, Christian Schmid v. InvisibleRegistration.com, Domain Admin, WIPO Case No. D2010-1059 or Swarovski Aktiengesellschaft v. mei xudong, WIPO Case No. D2013-0150).

Moreover, the Complainant's trademark is recognized as well-known, particularly in the field of tennis (see e.g. Fédération Française De Tennis (FFT) v. John Smith, ADR decision No. 101244).

Besides, the sequence « rolandgarros » of the disputed domain, which corresponds to the Complainant's trademark, is followed by the generic term « direct ». The Complainant noted that the addition of the generic term « direct » is not a sufficient element in order to consider that the domain name is not confusingly similar to the trademark ROLAND GARROS. The Panel agrees.

Indeed, it has to be pointed out that the term « direct » can refer to part of the Complainant's field of activity, since it can relate to a live transmission of the tennis tournament. Therefore, the addition of this generic term rather enhances the likelihood of confusion, since this word can suggest broadcasting services of the ROLAND GARROS contest.

We may add that a confusing similarity between the trademark ROLAND GARROS and a domain name similar to the disputed domain name - <rolandgarrostickets> - was recognized by a former Panel (see Fédération Française De Tennis (FFT) v. Duncan Knight, WIPO Case No. D2013-2022).

Finally, it is well established that the top-level domain name, such as <.com> in the present case, should be disregarded when asserting whether or not the disputed domain name is identical or confusingly similar to a complainant's trademark (see e.g. Diamonique Corporation v. Foley Services, WIPO Case No. D2007-0893).

In view of the above, the Panel considers that the Complainant has proved that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

NO RIGHTS OR LEGITIMATE INTERESTS

Prior UDRP panels have stated that it is sufficient that the Complainant shows a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name in order to shift the burden of proof to the Respondent (see e.g. Crédit Industriel et Commercial S.A. v. Zabor Mok, WIPO Case No. D2015-1432).

In the present case, the Complainant has made a prima facie showing that the Respondent does not benefit from a licence or authorization granted by the Complainant to use the ROLAND GARROS trademark.

Moreover, there is no business relationship between the Complainant and the Respondent. Furthermore, the latter is not commonly known under the name « ROLAND GARROS », since his name on the WhoIs record is James Real.

Besides, the Respondent has not filed a response to the Complainant's contentions to try to demonstrate a possible legitimate interest or right in the domain name.

Finally, the domain name is resolving to a website displaying a parking page containing pay-per-click links. This use does not demonstrate a legitimate interest in the Panel's view.

The Respondent has not provided evidence of the circumstances set in paragraph 4(c) of the Policy. Consequently, the Panel considers that the Respondent has no rights or legitimate interests in the disputed domain name.

BAD FAITH

As stated above, the disputed domain name incorporates identically the Complainant's ROLAND GARROS trademark, associated with the generic word « direct » which suggests a live streaming of the Roland Garros tournament.

Moreover, the Complainant's trademark is recognized as well-known, particularly in the field of tennis (see e.g. Fédération Française De Tennis (FFT) v. Satoshi Shimoshita, WIPO Case No. D2011-0813)

As stated by the Complainant, given the distinctiveness of the Complainant's trademark and reputation, it can be asserted that the Respondent has registered the domain name with full knowledge of the Complainant's trademark ROLAND GARROS.

Besides, the disputed domain name has been used by the Respondent for the purposes of intentionally attempting to attract Internet users in order to generate pay-per-click or other advertising revenue by creating a likelihood of confusion with the Complainant's trademark, as argued by the Complainant.

The above elements demonstrate that the Respondent was fully aware of the Complainant and of its trademark rights when registering the disputed domain name.

In consideration of the above-mentioned elements, the Panel concludes that the Respondent has registered and used the domain name in bad faith.

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

RIGHTS

The disputed domain name and the Complainant trademarks are confusingly similar.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. <.com>) must be disregarded under the identity test as it is a necessary technical requirement of registration. Besides, the addition of a generic term like « direct » does not dispel the likelihood of confusion but rather enhances it, since it suggests live streaming of the Roland Garros tournament.

NO RIGHTS OR LEGITIMATE INTERESTS

Given that the Respondent is not affiliated with the Complainant nor authorized by the Complainant in any way to use its trademark ROLAND GARROS and in the absence of a response from by the Respondent, the Panel concludes that the Respondent failed to provide any information or evidence that he has relevant rights or legitimate interests in respect of the disputed domain name.

BAD FAITH

The Panel finds that the Respondent has registered and used the disputed domain name in bad faith. 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. Besides, by using the disputed domain name, the Respondent has intentionally attempted to attract Internet users, for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's disputed domain name.

For the reasons described above, the Panel contends on the balance of probabilities, that the disputed domain name has been registered and is being used by the Respondent in bad faith (within the meaning of 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. **ROLANDGARROSDIRECT.COM**: Transferred

PANELLISTS

Name	**Nathalie Dreyfus**

DATE OF PANEL DECISION 2016-08-09

Publish the Decision