

## Decision for dispute CAC-UDRP-104531

Case number	CAC-UDRP-104531
Time of filing	2022-04-28 08:32:51
Domain names	retailpartners-colruytgroup.com

### Case administrator

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

### Complainant

Organization	Etablissements Franz Colruyt N.V.
--------------	-----------------------------------

### Complainant representative

Name	Pierre-Yves Thoumsin
------	----------------------

### Respondent

Name	Daniel Paker
------	--------------

#### 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, amongst others, of the following trademark registrations:

- European Union trademark registration No. 009856733 for COLRUYT (word mark), filed on March 31, 2011 and registered on October 7, 2011, in classes 16, 35 and 39;
- European Union trademark registration No. 010375434 for COLRUYTGROUP (word mark), filed on October 13, 2011 and registered on July 13, 2012 in classes 16, 35 and 39.

#### FACTUAL BACKGROUND

The Complainant was established in 1928 by Franz Colruyt who started a colonial wholesale goods business to serve grocers in Brussels and the surrounding area, becoming over time one of Belgium's largest supermarket chains under the trademark COLRUYT.

At present, the Complainant comprises several entities, including a company called Retail Partners Colruyt Group SA, with

registered offices at the same address as the Complainant.

The disputed domain name <retailpartners-colruytgroup.com> was registered on March 22, 2022 and is redirected to the website “www.retailpartnerscolruytgroup.be” of a Complainant’s affiliate.

---

#### PARTIES CONTENTIONS

##### COMPLAINANT

The Complainant contends that disputed domain name <retailpartners-colruytgroup.com> is confusingly similar to the trademarks COLRUYT and COLRUYT GROUP in which the Complainant has rights, as it reproduces the trademarks in their entirety with the mere addition of descriptive terms and the generic Top-Level Domain “.com”.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name because the Complainant is the only organization in the world using the names COLRUYT and COLRUYTGROUP, corresponding to the name of the company’s founder and the Colruyt family, who remains its leading shareholder.

The Complainant states the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s trademarks. The Complainant also contends that the Respondent is not engaged in any legitimate business which would require using the Complainant’s trademarks.

The Complainant notes the disputed domain name is merely used as an attempt to impersonate the Complainant for malicious purposes, since e-mail communications have been sent, using the e-mail address guido.soret@retailpartners-colruytgroup.com, impersonating the commercial director of the Complainant’s affiliate Retail Partners Colruyt Group NV.

With reference to the circumstances evidencing bad faith, the Complainant indicates that sending e-mails, containing the details (address, VAT number, name of the commercial director) of an affiliate of the Complainant clearly demonstrates that the disputed domain name is being used to impersonate the Complainant and that the purpose of the e-mail was indeed to obtain business information and/or procure goods from a supplier of the Complainant or the Complainant’s affiliate.

The Complainant further contends that the use of a domain name for illegitimate activity such as phishing can never confer rights or legitimate interests on a respondent and such behaviour is obviously evidence of bad faith. The Complainant also submits that redirecting a domain name to the Complainant’s affiliate website at <retailpartnerscolruytgroup.be> not only creates a real ongoing threat to the Complainant but also reinforces the threat of a scam.

Lastly, the Complainant highlights that the contact details of the Respondent, revealed by the registrar, are false, as they refer to a local bakery called Goiris which obviously has nothing to do with the registration of the disputed domain name.

##### 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

1. The Panel finds that the Complainant has established rights over the trademarks COLRUYT and COLRUYTGROUP based on the trademark registrations cited above and the related trademark certificates submitted as annexes 1 and 2 to the Complaint.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark COLRUYT as it reproduces the trademark in its entirety with the mere addition of a hyphen and the descriptive terms "retail", "partners" and "group". Moreover, the disputed domain name is also confusingly similar to the trademark COLRUYTGROUP, which is entirely incorporated in the disputed domain name with the sole addition of a hyphen and the descriptive terms "retail" and "partners".

Indeed, as found in a number of prior cases decided under the UDRP Policy, where a trademark is recognizable within a domain name, the addition of generic or descriptive terms does not prevent a finding of confusing similarity under the first element. In addition, the generic Top-Level Domain ".com" is usually disregarded being a mere technical requirement for registration.

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to trademarks in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

2. With reference to the Respondent's rights or legitimate interests in the disputed domain name, the Panel finds that the Complainant has made a prima facie case and that the Respondent, by failing to submit a Response, has failed to provide any element from which a Respondent's right or legitimate interest in the disputed domain name could be inferred.

The Complainant stated that the Respondent is in no way related to the Complainant, has never been licensed in any way by the Complainant and has not been granted any authorization to use the Complainant's trademarks.

Based on the records, there is no evidence that the Respondent, who is identified as Daniel Paker in the Whois records, might be commonly known by the disputed domain name.

The Panel further finds that the Respondent, by redirecting the disputed domain name to the website of a Complainant's affiliate, published at the domain name <retailpartnerscolruytgroup.be>, and using the disputed domain name to send scam e-mails impersonating the commercial director of the Complainant's affiliate Retail Partners Colruyt Group NV, is clearly not making a bona fide offering of goods or services or a legitimate non-commercial or fair use of the disputed domain name.

Indeed, as found in many prior decisions, the use of a domain name for per se illegitimate activity such as phishing and/or impersonation can never confer rights or legitimate interests on a respondent.

Therefore, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in the disputed domain name according to paragraph 4(a)(ii) of the Policy.

3. As to bad faith at the time of the registration, the Panel finds that, in light of the prior registration and use of the trademarks COLRUYT and COLRUYT GROUP by the Complainant in connection with its wholesale supermarket services and considering the distinctive and well-known character of the Complainant's trademarks in Belgium where the Respondent is located (as also found in *Etablissementen Franz Colruyt, Naamloze Vennootschap v. Redacted for Privacy / Michael Hannart*, WIPO Case No.

D2020-1993), the Respondent was more likely than not aware of the Complainant's trademarks at the time of registration.

In view of the use of the disputed domain name made by the Respondent, to redirect users to the website of a Complainant's affiliate a <retailpartnerscolruytgroup.be> and send e-mail communications reproducing also the details of the Complainant's affiliate, the Panel finds that the Respondent was indeed well aware of the Complainant's trademarks and registered the disputed domain name with such trademarks in mind.

The Panel also finds that, by redirecting the disputed domain name to the above-referenced website and sending fraudulent e-mails from the address guido.soret@retailpartners-colruytgroup.com, corresponding to the commercial director of a Complainant's affiliate Retail Partners Colruyt Group NV, including also details such as the Complainant's VAT number and address, the Respondent was clearly acting in bad faith, with the intent to impersonate the Complainant's affiliate for scam purposes, to obtain business information and/or procure goods from a supplier of the Complainant or the Complainant's affiliate.

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and has been using the disputed domain name in bad faith according to 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. **RETAILPARTNERS-COLRUYTGROUP.COM:** Transferred

---

## PANELLISTS

Name	<b>Luca Barbero</b>
------	---------------------

---

DATE OF PANEL DECISION	2022-06-06
------------------------	------------

---

Publish the Decision

---