

Decision for dispute CAC-UDRP-104575

Case number	CAC-UDRP-104575
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Time of filing	2022-05-11 09:00:46
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Domain names	algecoo.com
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Case administrator

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

Organization	ALGECO
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	Trimo
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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 claims rights on two trademarks:

- the composed international registration trademark ALGECO No. 386452, registered on January 27, 1972, for goods and services in classes 6, 12, 19, 20 36, 39 and 42, and dully renewed;

- the word international registration trademark ALGECO No. 1099894, registered on October 21, 2011, for goods and services in classes 6, 19, 20, 37, 39 and 43, and dully renewed.

The Complainant also claims ownership on the domain name <algeco.com>, registered on August 11, 1997.

The Respondent registered the Disputed Domain Name <algecoo.com> on April 30, 2022.

FACTUAL BACKGROUND

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

The Complainant is a French company created in the early 1950's, and its principal business throughout its lifespan has been modular space and secure storage solution for businesses and public sector agencies.

The Complainant owns several trademarks ALGECO, such as the IR ALGECO No. 386452 registered on January 27, 1972 and the IR ALGECO No. 1099894 registered on October 21, 2011 (hereinafter the "ALGECO trademarks").

The Respondent has registered the Disputed Domain Name <algecoo.com> on April 30, 2022.

It does not resolve to a specific website.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT'S CONTENTIONS:

The Complainant claims that the Disputed Domain Name is confusingly similar to the well-known ALGECO trademarks.

The addition of the letter "O" is not sufficient to escape the finding of confusing similarity. It is a clear case of typosquatting.

The Complainant asserts that the Respondent is not known as the Disputed Domain Name.

The Complainant asserts that it 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 use any of the Complainant's trademarks, or to register a domain name composed of the ALGECO trademarks.

The Complainant also claims that typosquatting can be evidence of the Respondent's lack of rights and legitimate interests.

The Disputed Domain Name resolves to an inactive website. According to the Complainant, it confirms that the Respondent has no demonstrable plan to use the Disputed Domain Name.

The Complainant contends that, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the Disputed Domain Name with full knowledge of the Complainant trademarks.

The Complainant states that the misspelling of the ALGECO trademarks was intentionally designed to be confusingly similar with the Complainant's trademarks is evidence of bad faith in the registration of the Disputed Domain Name.

The Complainant claims that the Respondent uses the Disputed Domain Name to pass off as the Complainant and to engage in phishing. It is evidence of bad faith disruption of the Complainant's business and an attempt to attract users for commercial gain.

RIGHTS

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant is a French company that owns several trademarks ALGECO, such as the IR ALGECO No. 386452 registered on January 27, 1972 and the IR ALGECO No. 1099894 registered on October 21, 2011.

The Disputed Domain Name is <algecoo.com>.

The Disputed Domain Name wholly incorporates the ALGECO trademarks.

It only differs from the ALGECO trademarks by the addition of a second letter (O) at the end of the trademark. It is an obvious, or even an intentional misspelling of the ALGECO trademarks.

The Disputed Domain Name then contains sufficiently recognizable aspects of the ALGECO trademarks.

It is largely admitted that the gTLD serves a technical purpose and is to be disregarded for a finding of confusing similarity.

Thus, the Disputed Domain Name is confusingly similar to the ALGECO trademarks.

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

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the Respondent's use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services; or
- (ii) the Respondent has been commonly known by the Disputed Domain Name, even if it has acquired no trademark or service mark rights; or
- (iii) the Respondent is 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 or service mark at issue.

The Whois information record identifies the Respondent as "Chidubem Okoye / Trimo". The Respondent is not commonly known under the Disputed Domain Name.

The Complainant asserts that the Respondent is not related in any way with the Complainant and that it did not grant neither license nor authorization to use the ALGECO trademarks or to register the Disputed Domain Name. This allegation was not contested by the Respondent.

The Complainant argues that the Respondent is typosquatting, and that it is evidence that the Respondent lacks rights and legitimate interest in the Disputed Domain Name. Following Forum Case No. 1597465, *The Hackett Group, Inc. v. Brian HERNs* / *The Hackett Group* cited by the Complainant, the Panel agrees that typosquatting of the ALGECO trademarks is additional evidence of the Respondent lacks of rights or legitimate interests.

According to the exhibits provided by the Complainant, the Panel notes that the Respondent is engaged in a scam meant to obtain money from the Complainant's real clients. The Respondent uses the following e-mail addresses to contact them: i.p@algecoo.com and e.m@algecoo.com (the names have been redacted by the Panel for privacy reasons).

The Respondent pretends to be the Complainant and requests that they pay their invoices to a new bank account, presumably linked to the Respondent. The Panel finds that engaging in such a scam is not a bona fide offering of goods or services or a legitimate noncommercial or fair use of the Disputed Domain Name.

The Respondent did not respond to the Complainant to rebut its prima facie case. It did not provide any evidence or allege any circumstance to establish that it has rights or legitimate interests in the Disputed Domain Name.

Therefore, the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in respect to the Disputed Domain Name.

The Panel concludes that the Respondent did not establish any right or legitimate interest to the Disputed Domain Name (within the meaning of paragraph 4(a)(ii) of the Policy).

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

Paragraph 4(b) of the Policy sets out examples of circumstances that will be considered by a Panel to be evidence of bad faith registration and use of the Disputed Domain Name.

It provides that:

“For the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a Domain Name in bad faith:

(i) circumstances indicating that the Respondent has registered or the respondent has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the Domain Name; or

(ii) the Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding Domain Name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant’s mark 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.”

The ALGECO trademarks were registered since 1972 and 2011, and duly renewed since then. The Disputed Domain Name was registered on April 30, 2022.

The Panel agrees that the ALGECO trademarks are highly distinctive. Given their reputation, it is then reasonable to assume that the Respondent, who is domiciled in France, knew or should have known of the ALGECO trademarks before the registration of the Disputed Domain Name.

Furthermore, the Respondent clearly intentionally misspelled the ALGECO trademarks for the Disputed Domain Name. It is a clear case of typosquatting and it is evidence in bad faith when registering the Disputed Domain Name.

The Respondent is using the email string associated with the Disputed Domain Name to send fraudulent emails to the Complainant’s clients. The Respondent pretends to be the Complainant and requests that they pay their invoices to a new bank

account, presumably linked to the Respondent.

The fraudulent emails identify the Respondent as a "commercial", mentioning an e-mail address ...@algeco.com which corresponds to the official e-mail of the Complainant.

The Disputed Domain Name is clearly used in an attempt to impersonate Complainant.

The Respondent is evidently attempting to profit of the likelihood that the Internet users will be confused as to the source of the e-mail addresses used.

The Panel finds that Respondent is intending to profit from a likelihood of confusion, and finds this is evidence of bad faith.

Therefore, the Panel considered that the Respondent has registered the Disputed Domain Name for the purpose of disrupting the business of the Complainant.

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

The Disputed Domain Name <algecoo.com> is confusingly similar to the ALGECO trademark.

NO RIGHTS OR LEGITIMATE INTEREST

Pursuant to paragraph 4(c) of the Policy, the Respondent is not known under the Disputed Domain Name and is not making any bona fide use of this domain name.

The Panel finds that engaging in a scam is not a bona fide offering of goods or services or a legitimate noncommercial or fair use of the Disputed Domain Name.

BAD FAITH

Given the reputation and the fact that the Respondent is domiciled in France, the Respondent was well aware of the ALGECO trademarks when it registered the Disputed Domain Name.

The Disputed Domain Name is clearly used in an attempt to impersonate Complainant and to abuse the Complainant's clients.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ALGECOO.COM**: Transferred

PANELLISTS

Name	Marie-Emmanuelle Haas, Avocat
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DATE OF PANEL DECISION 2022-06-07

Publish the Decision