

Decision for dispute CAC-UDRP-104817

Case number CAC-UDRP-104817

Time of filing 2022-08-26 09:09:08

Domain names jeu-rolandgarros.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization FEDERATION FRANCAISE DE TENNIS (FFT)

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Ball Teng

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 proprietor of a number of trade marks containing the string 'ROLAND GARROS' including the mark with international protection 'ROLAND GARROS' (459517, first registered 1 April 1981, on the basis of a French mark, and duly renewed since, in classes including 28 (games).

FACTUAL BACKGROUND

The Complainant, a federation with its seat in Paris, France, has been established for over a century and promotes, organises and develops the sport of tennis in France. Among its activities is an annual international tennis tournament (popularly called the 'French Open'), which takes place at Roland Garros. It has registered and uses a number of domain names in connection with this event, including <ROLANDGARROS.COM> (since 21 April 1999) and <ROLAND-GARROS.COM> (since 22 April 1997).

The Respondent, an individual with an address in Khon Kaen, Thailand, registered the disputed domain name on 17 August 2022.

PARTIES CONTENTIONS

No administratively complaint Response has been filed. The Provider is unaware whether the written notice was received by the Respondent or not. An email notice sent to the Respondent was neither returned as delivered or undelivered, and the Respondent never accessed the online platform.

The Complainant submits that all aspects of the Policy have been addressed and that the disputed domain name should be transferred to it. It relies upon factual and legal arguments including in respect of the use of the disputed domain name by the Respondent, and supplies relevant evidence in the form of Annexes to its Complaint. The specific arguments are set out in more detail below.

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).

The disputed domain name differs from the mark in which the Complainant has rights in the following respects. First, the disputed domain name contains the generic top level domain .com, but this is disregarded in accordance with established practice under the Policy. Second, the disputed domain name contains a hyphen, but as this is used to replace the space character in a domain name, this is not of any further relevance in the present case. The final aspect, and the one requiring the closest attention, is the inclusion of the additional text JEU in the disputed domain name. The string 'jeu' means, in French, 'game'. As well as the incorporation in full of the Complainant's mark, then, the disputed domain name contains a generic term (which could indeed also be read as descriptive of or associated with the Complainant's mark and activities) (see WIPO Jurisprudential Overview, version 3.0, paragraph 1.8). The Panel also notes the Complainant's submission that a range of previous Panels have found confusing similarity in respect of a number of other domain names consisting of the text 'ROLAND GARROS' and other terms including 'shop', '2022', and 'metaverse'. On that basis, the Panel accepts that the disputed domain name is confusingly similar to the Complainant's mark 'ROLAND GARROS'.

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).

The Complainant has made out its prima facie case that the Respondent has no relevant rights or legitimate interests. The Respondent, through its failure to participate in the present proceedings, has not done anything to challenge this case. On that basis, it is clear that the Panel can find that the Respondent is not known as 'JEU ROLAND GARROS' but instead is known as 'Ball Teng'. The Complainant has affirmed, without contradiction from the Respondent, that it has no activity or business with the Respondent, and that it (the Complainant) has not granted the Respondent any licence or authorisation to make use of its mark ROLAND GARROS.

The Panel has also given careful consideration to the way in which the Respondent is using the disputed domain name, in case any plausible rights or legitimate interests are indicated by such facts and circumstances. However, as the disputed domain name is being used for a website with links to online casinos, and no action has been taken to explain or justify the use of the Complainant's mark or to dispel any possible confusion, this only serves to strengthen the Complainant's case.

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).

The Panel first notes that the Complainant's mark is well known (taking into account a number of past decisions cited by the Complainant, including WIPO Case No. D2017-1045, Federation Francaise De Tennis (FFT) v. WhoisGuard Protected, WhoisGuard, Inc. / Md Rubel Hossain and CAC Case No. 101242, FEDERATION FRANCAISE DE TENNIS (FFT) v. Real James), and agrees that it is likely that the Respondent was aware of the Respondent and its marks when it registered the disputed domain name (using a privacy / proxy service in the first instance). The Panel also accepts the evidence presented by the Complainant of the international recognition of the term ROLAND GARROS and its association with the Complainant and its major international tournament. Given these circumstances, and the lack of explanation from the Respondent, the Panel is confident in finding that such registration was in bad faith. As for the use of the disputed domain name, the evidence presented regarding the Respondent's current activities makes it clear that this is a situation contemplated by the Policy as one of the non-exhaustive examples of bad faith, whereby a Respondent has, by using a disputed domain name, intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with a Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or a product or service on its website (see paragraph 4(b)(iv) of the Policy). For that reason, it is also clear to the Panel that the disputed domain name is being used 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

In the absence of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name. On the other hand, it is clear that the Complainant has rights in respect of the trade mark ROLAND GARROS, and that the addition of the text JEU ('game', in French) does not prevent a finding of confusing similarity with the Complainant's marks. It is likely, in light of the nature of the Complainant's mark and activities, and the degree to which the disputed domain name departs from the Complainant's mark, that the Respondent would have been aware of the Complainant and its particular activities (including its major international event), and that the Respondent is intentionally using the disputed domain name to attract Internet users to its page on online gambling, an established form of bad faith use under the Policy. The Panel can find for these reasons that the disputed domain name was registered and is being operated in bad faith, and that the Respondent, through its failure to participate, has not pointed to any rights, legitimate interests, or the absence of bad faith registration or use. The requirements for the acceptance of a Complaint under paragraph 4 of the Policy have therefore been met, and the Panel ordered that the disputed domain name be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **jeu-rolandgarros.com**: Transferred

PANELLISTS

Name	Daithi Mac Sithigh
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DATE OF PANEL DECISION	2022-09-25
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Publish the Decision