

Decision for dispute CAC-UDRP-104269

Case number	CAC-UDRP-104269
Time of filing	2022-01-17 10:00:51
Domain names	rolandgarrosmetaverse.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	FEDERATION FRANCAISE DE TENNIS (FFT)
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Ibiyemi Ifederu
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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 is the owner of several trademarks. In particular, FEDERATION FRANCAISE DE TENNIS (FFT) owns:

1) International Registration No.459517 "ROLAND GARROS" registered on April 1, 1981 for classes 18, 25 and 28 and duly renewed. The above trademark is protected in numerous countries.

2) French Registration No. 1351529 "ROLAND GARROS" registered on February 7, 1986 for classes 9 and 14 and duly renewed.

FACTUAL BACKGROUND

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

Founded in 1920, the Complainant promotes, organizes and develops tennis in France. It counts nearly 1 million licensees in 2020. The Complainant also provides representation of France in international meetings and organizes major tournaments such as the International of France at Roland Garros.

The disputed domain name <rolandgarrosmetaverse.com> was registered on January 8, 2022.

The Complainant states that the disputed domain name <rolandgarrosmetaverse.com> is confusingly similar to its trademark "ROLAND GARROS". Actually, in the Complainant's view, the addition of the term "metaverse" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark „ROLAND GARROS“.

The Complainant contends that the Respondent is not affiliated with him nor authorized by him in any way. The Complainant also argues that the Respondent has no right nor legitimate interest in the disputed domain name and it is not related in any way to its business. The Complainant does not carry out any activity for, nor has any business with the Respondent. The Respondent is not commonly known by <rolandgarrosmetaverse.com> or by other names similar to the disputed domain name.

Given the distinctiveness of the Complainant's trademark and its reputation, the Complainant infers that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark. The Complainant also notes that the disputed domain name <rolandgarrosmetaverse.com> resolves to a parking page with commercial links. The Complainant believes the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks for its own commercial gain.

PARTIES CONTENTIONS

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

The disputed domain name <rolandgarrosmetaverse.com> combines three elements: (1) the wording "rolandgarros" (2) the term "metaverse" and (3) the top-level domain name ".com". The relevant comparison to be made is with the portion of the domain name "rolandgarrosmetaverse". Actually, it is well established that the top-level domain name (i.e., ".com") should be disregarded for this purpose (see, between many others, Playboy Enterprises International, Inc. v. John Taxiarchos, WIPO Case No. D2006 - 0561). Furthermore, the term "metaverse" does not distinguish the disputed domain name from Complainant's "ROLAND GARROS" mark. This, especially in consideration of the fact that "metaverse" must be considered as a generic term having regard to the Complainant's business since it is possible to train and play tennis in the metaverse (which is a way to create augmented reality experiences) thanks to different dedicated applications. In general, when a distinctive mark is combined with less distinctive terms, the combination will typically be found to be confusingly similar to the distinctive mark. Therefore, in the case at hand, the combination does not prevent the likelihood of confusion between

the disputed domain name and the Complainant's trademark (see, between many others, Arcelormittal S.A. v. Name Francois Dumontier, CAC Case. No. 100855). Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark "ROLAND GARROS". Accordingly, the Complainant succeeds on the first element of the Policy.

The Complainant has long standing rights in the mark "ROLAND GARROS". The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and as the Respondent was never authorized to use the domain name by the Complainant. The Respondent, in the absence of any response, has not shown any facts or element to justify prior rights or legitimate interests in the disputed domain name. The Complainant has not licenced or otherwise permitted the Respondent to use the Complainant's marks in the disputed domain name. On the basis of the evidence submitted and in the absence of a response the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant therefore succeeds on the second element of the Policy.

It is the Panel's view that the disputed domain name has been registered in bad faith because the Respondent was or must have been perfectly aware of the existence of "ROLAND GARROS" trademark, which is well known, highly distinctive and unique for the registered goods, when the same Respondent registered the domain name <rolandgarrosmetaverse.com>. Furthermore, there is no evidence that the disputed domain name has been actively used by the Respondent for a website containing a concrete offer of goods and/or services. Instead, the Complainant has proved that the domain name in dispute only directs to a parking page containing various commercial links. This circumstance reveals the Respondent's primary motive in relation to the registration and use of the disputed domain name which is, in the Panel's view, to profit from the goodwill associated with the Complainant's trademark "ROLAND GARROS". According to previous decisions, by diverting Internet users to the website associated with the disputed domain name, the Respondent is benefiting from pay-per-click revenue and profits, which is evidence of use of the disputed domain name in bad faith (see, between many others, Accor SA v. Domain Administrator, PrivacyGuardian.org / Zhichao Yang, WIPO Case No. D2017-1322 and Accor SA v. Jan Everno, The Management Group II, WIPO Case No. D2017-2212). As the conduct described above falls within paragraph 4(b)(iv) of the Policy (see also Triumph International Vietnam Ltd v. Tran Quoc Huy, WIPO Case No. D2017-0340) the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith pursuant to the paragraph 4(a)(iii) of the Policy. The Complainant therefore succeeds also on the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. ROLANDGARROSMETAVERSE.COM: Transferred

PANELLISTS

Name	Avv. Guido Maffei
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DATE OF PANEL DECISION 2022-02-14

Publish the Decision
