

## Decision for dispute CAC-UDRP-105360

Case number CAC-UDRP-105360

Time of filing 2023-04-17 09:41:45

Domain names frcourir.com

### Case administrator

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

### Complainant

Organization GROUPE COURIR

### Complainant representative

Organization NAMESHIELD S.A.S.

### Respondent

Organization Snipeseu

#### 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

Among others, the Complainant is the owner of the following registered trademark:

European Union Registered Trademark No. 17257791 for the word mark COURIR, registered on March 7, 2019, for goods and services in Nice Class 35.

#### FACTUAL BACKGROUND

The Complainant operates in the sneaker fashion industry, offering a selection of sneakers, ready-to-wear and fashion accessories for men, women and children. In 2018, it maintained 188 stores, with 50 affiliated stores in France. The Complainant is present internationally, with 27 stores located in Spain, Poland and in the Maghreb, the Middle East and overseas territories.

The Complainant is the owner of several registered trademarks for the term COURIR, including International and European Union registered marks dating back to 2007. For example, the Complainant is the owner of European Union Registered Trademark No. 17257791 for the word mark COURIR, registered on March 7, 2019, for goods and services in Nice Class 35. The Complainant has also registered numerous domain names incorporating this term, including its official domain name <courir.com>, registered since February 16, 1998.

The disputed domain name was registered on April 6, 2023, and resolves to an online store which sells sports shoes, including shoes made by the Complainant's competitors. Nothing is known of the Respondent other than that it appears to be a private individual with an address in Finland. The Respondent has not participated in the administrative proceeding although the case file provides information that the Respondent accessed the online case file and viewed the Complaint.

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#### PARTIES CONTENTIONS

##### Complainant:

The disputed domain name is confusingly similar to the Complainant's COURIR trademark and incorporates this in its entirety. The addition of the country code "FR" does not change the overall impression of the designation as being connected to the Complainant's mark or prevent the likelihood of confusion between the Complainant, its trademark and the disputed domain name. The addition of the disputed domain name's suffix ".com" does not change the overall impression of the designation as being connected to the COURIR trademark. The Complainant's rights have been affirmed in previous cases under the Policy.

The Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent is not known as the disputed domain name and the WHOIS information is not similar to the disputed domain name. The Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant does not carry out any activity for the Respondent and has no business with it. No license nor authorization has been granted to the Respondent to make any use of the Complainant's COURIR trademark or to apply for registration of the disputed domain name. The disputed domain name is used to disrupt the Complainant's business and to attract Internet users by impersonating the Complainant. Such impersonation, by using a complainant's trademark in a domain name and seeking to defraud or confuse users, indicates a lack of rights and legitimate interests.

The disputed domain name was registered and is being used in bad faith. The Complainant's trademark is the first and most dominant element of the disputed domain name, coupled with the "FR" country code, which has a close association with the Complainant's business. It is evident that the Respondent had knowledge of the Complainant's trademark at the time of registration.

The associated website is in the French language and offers competing products for sale, containing confusing messages suggesting that it might be affiliated with or sponsored by the Complainant. The Respondent uses the disputed domain name to divert Internet users searching for the Complainant's website to the Respondent's competing website, and to create a likelihood of confusion with the Complainant's mark for the Respondent's commercial gain by offering competing products. Panels in previous cases under the Policy have considered this to be evidence of bad faith.

##### Respondent:

No administratively compliant Response has been filed.

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#### 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).

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#### 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).

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#### 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).

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#### 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.

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PRINCIPAL REASONS FOR THE DECISION

The Complainant has demonstrated that it has UDRP-relevant rights in its COURIR trademark by virtue of (among others) European Union Registered Trademark No. 17257791.

The Second-Level Domain of the disputed domain name contains the Complainant's COURIR trademark in its entirety, coupled with the letters "FR" which have no distinguishing significance. The mark is therefore fully recognizable in the disputed domain name based upon a straightforward side-by-side comparison. The generic Top-Level Domain in respect of the disputed domain name, namely ".com", is typically disregarded for the purposes of the comparison under the first element analysis of the Policy. Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's COURIR trademark.

With regard to the second element of the Policy, the Complainant submits that the Respondent is not commonly known by the disputed domain name (based on the corresponding WHOIS information), that the Respondent is not affiliated with nor authorized by the Complainant in any way, that the Complainant does not carry out any activity for the Respondent and has no business with it, and that no license nor authorization has been granted to the Respondent to make any use of the Complainant's COURIR trademark including within the disputed domain name. The Complainant submits, with corresponding evidence, that the disputed domain name is being used to impersonate the Complainant by pointing to an online sneaker store in the French language.

The Panel finds that these submissions, taken together, are sufficient to constitute the requisite prima facie case that the Respondent has no rights and legitimate interests in the disputed domain name (see, for example, section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0")). In particular, the Respondent's use of the disputed domain name to point to a sneaker store could only confer rights and legitimate interests upon it if it was able to pass the "Oki Data" test (Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No. D2001-0903). Here, the Respondent does not pass the test because the website associated with the disputed domain name provides no indication of the relationship (or, in fact, non-relationship) between the Complainant and the Respondent. It would also fail the test on the basis that the said site does not only offer the Complainant's goods but instead offers products for sale that compete with those of the Complainant.

The Respondent has failed to rebut the Complainant's said prima facie case in that it has not filed a Response in the administrative proceeding. The Panel considers that it is reasonable in the above circumstances to make a finding that the Respondent has no rights or legitimate interests in the disputed domain name.

Turning to the question of registration and use in bad faith, the Panel notes that the disputed domain name consists of an exact match of the Complainant's trademark coupled with the letters "FR". In these circumstances, the disputed domain name appears to suggest that it is an official domain name of the Complainant for the French geographic region when it is not. The letters "FR" contribute to a misleading impression that the disputed domain name has a close affiliation or connection with the Complainant, given that the Complainant is a French business.

The disputed domain name was registered in 2023, by which date the Complainant's trademarks had been in force for years. The disputed domain name has been used in connection with an online retail store selling third party sneakers, and the retailing of sneakers represents the same line of business as the Complainant. In these circumstances, the Panel finds on the balance of probabilities that the Respondent registered the disputed domain name with actual knowledge of the Complainant and its rights in its COURIR trademark, and with intent to target these.

In all of these circumstances, and in the absence of any rebuttal from the Respondent, the Panel also finds on the balance of probabilities that the Respondent is using the Complainant's trademark in the disputed domain name in order to create the false impression of an affiliation with the Complainant, its trademarks, and/or its products and services, and is using the disputed domain name to intentionally attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademark, products and services. Accordingly, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **frcourir.com**: Transferred

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**PANELLISTS**

Name	Andrew Lothian
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DATE OF PANEL DECISION 2023-05-11

