

Decision for dispute CAC-UDRP-105336

Case number CAC-UDRP-105336

Time of filing 2023-04-06 08:35:45

Domain names placo.pictures

Case administrator

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

Complainant

Organization PLACOPLATRE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization JEAN PLACOTARIS

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 the trademark PLACO which is registered as a word mark and a figurative mark for several products and services in relation to construction, in numerous countries all over the world, including France, such as:

International word mark PLACO, registered on 28 December 1978, under number 540 427;

French word mark PLACO, registered on 6 July 1978, under number 1 081 783;

French word mark PLACO, registered 2 October 1998, under number 98 752 484;

French figurative mark PLACO, registered on 15 December 2021, under number 21 4 826 390.

FACTUAL BACKGROUND

According to the Complainant, PLACOPATRE, which is part of the SAINT-GOBIN group, is a company incorporated in France that specializes in plaster production in several countries worldwide.

The Complainant is also the owner of PLACO domain names such as <placo.fr> registered on 15 June 2003.

The disputed domain name <placo.pictures> was registered on 13 March 2019.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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.

The CAC received an e-mail message on May 2, 2023 from the Respondent's registration e-mail address stating that: "I deeply suggest you stop sending me this kind of email or I will take you to court. I am not the owner of placo.pictures. This is my first and last warning". No further communication from the Respondent was received by the CAC. The Respondent never accessed the online platform.

PRINCIPAL REASONS FOR THE DECISION

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has right

The Complainant states that the disputed domain name is identical to its prior trademark PLACO. The domain name includes the trademark in its entirety.

The generic Top-Level Domain extension of the disputed domain name, in this case ".pictures", is typically disregarded under the confusing similarity test, as it is a standard requirement for registration.

Therefore, the Complainant concludes, and the Panel agrees, that the disputed domain name is identical to the Complainant's trademark.

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

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests (WIPO Case No. D2003-0455). Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant asserts that the . Past panels have held that a Respondent was not commonly known under a disputed domain name if the WHOIS information was not similar to the disputed domain name (Forum Case No. FA 1781783). Here, there is some

similarity between the disputed domain name and the alleged name of the Respondent (Jean Placotaris), but they are not identical and the name that the Respondent provided when registering the disputed domain name is most likely false.

The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither a license nor an authorization has been granted to the Respondent to make any use of the Complainant's trademark PLACO, or apply for registration of the disputed domain name.

Finally, the disputed domain name resolves to a parking page featuring pay-per-click advertisements unconnected to the disputed domain name.

The Panel finds that the Complainant has shown that the Respondent has not made legitimate use of the disputed domain name for a bona fide offering of goods or services. In lack 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 domain name.

3. The disputed domain name is registered and is being used in bad faith

The Complainant states that the disputed domain name is identical to its PLACO trademark, which is well known, as confirmed by a Decision of the French Court of Bordeaux. Given the reputation of the Complainant's trademark, it is reasonable to infer that the Respondent has registered and used the domain name with full knowledge of the Complainant's trademark. Past panels held that registration of a well-known trademark as a domain name may be an indication of bad faith in itself, even without considering other elements (WIPO Case No. D2002-0562; WIPO Case No. D2000-0163; WIPO Case No. D2006-0435; WIPO Case No. D2014-1861).

The disputed domain name points to a parking page. Use of an identical or confusingly similar domain name to redirect Internet users to a website containing advertisements and links to third-party websites for commercial gain is indicative of bad faith registration and use per Policy 4(b)(iv) (FA1408001575815 (Forum Sept. 18, 2014); FA1404001557007 (Forum June 6, 2014)).

In lack of any substantive Response from the Respondent and the information sent from the registration email that the Respondent, listed in the Whois records, claims not to be a holder of the disputed domain name, the Panel concludes that the Respondent has registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. placo.pictures: Transferred

PANELLISTS

Name	Tom Heremans
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DATE OF PANEL DECISION 2023-05-15

Publish the Decision
