

Decision for dispute CAC-UDRP-105414

Case number CAC-UDRP-105414

Time of filing 2023-05-04 09:38:59

Domain names **courir.casa**

Case administrator

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

Complainant

Organization **GROUPE COURIR**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Name **mounir elabridi**

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 relies amongst others on international Trademark registration <COURIR> (verbal) number 941035, registered on 25 September 2007 for goods in classes 25 and 28, which has been granted protection in many states, including Morocco, where the Respondent is located.

According to the Complainant's uncontested evidence, the disputed domain name connects to a parking website with pay-per-click (PPC) links, unconnected to any descriptive meaning of the disputed domain name.

FACTUAL BACKGROUND

According to the Registrar verification, the Respondent registered the disputed domain name on 24 April 2023. The language of the registration agreement is English.

Having regard to the complexity of the proceeding including two non-standard communications by the Respondent, the Panel determined on 13 June 2023 that it is appropriate for the Complainant to pay the additional UDRP fee and the decision date to be postponed by 10 days. The Complainant duly paid the additional fee on 15 June 2023.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

However, on 4 May 2023 the Respondent filed a non-standard communication pointing out the following: The domain name is meant to host a web site of a fitness coach in the city of Casablanca, <courir> being a common French verb (meaning <to run> in English) and <Casa> being the defacto diminutive of Casablanca.

The Respondent describes itself as a sports group of people joining every Sunday at 8 am for running together in the Casablanca Forest called Bouskoura for two hours. In addition, it points out that it is not selling any apparel under the brand <courir>.

The disputed domain name was registered just one week before the complaint was filed. It was automatically assigned a holding page/parking page by the Registrar.

In the light of the above, the Respondent considers the case to be an abuse of the system to try to accaparate this domain name consisting of a basic French term. The Respondent further feels this complaint to be baseless and offensive and stuck-up usage of the French language.

In a further non-standard communication of 16 June 2023, the Respondent repeated that he registered the disputed domain name consisting of a French standard verb in good faith. He further claims to be using the verb <courir> to promote running activities in Casablanca. He does not sell products or services under the disputed domain name.

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

1.

The Panel finds that the disputed domain name is identical to the Complainant's trademark.

In fact, the Complainant has proven ownership of several registered trademarks including or consisting of the verbal element <COURIR>, in particular International Trademark registration for the verbal mark <COURIR> number 941035 with protection in many states, including Morocco. The Respondent does not dispute that the Complainant holds these valid trademarks.

The disputed domain name is identical to that trademark, disregarding the Top Level Domain ".casa", which is a technical requirement for every domain name (cf. GROUPE COURIR v. StarFolies, CAC case n° 102676 concerning <courir.store>).

The Complainant succeeds on the first element of the Policy in relation to the disputed domain name.

2.

The Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to a disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a prima facie case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

It results from the records that the disputed domain name resolves to a website featuring PPC advertisement links. Such use cannot be qualified a bona fide offering of goods or services in accordance with paragraph 4(c)(i) of the Policy. In fact, this Panel shares the view of previous panels holding that the use of a domain name to host a parking page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users (see section 2.9 of the WIPO Overview 3.0). In addition, the Respondent did not submit any evidence of bona fide preparations to use the disputed domain name. In particular, the Complainant's uncontested allegations demonstrate that the Respondent has no connection or affiliation with the Complainant who has not granted the Respondent any license or consent, express or implied, to use the Complainant's trademark in domain names or in any other manner.

Furthermore, the Panel notes that there is no evidence in the record that could lead the Panel to conclude that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Finally, there is no evidence in the records showing that the Respondent might be making a noncommercial 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 pursuant to paragraph 4(c)(iii) of the Policy. In fact, as underlined here above, the disputed domain name is used for a parking page with commercial PPC-links. Such use is commercial. Therefore, the Panel holds that such commercial use cannot – from the outset – be considered a legitimate, noncommercial 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.

Even if the Panel were incorrect on the above prior panels have recognized that merely registering a domain name comprised of a dictionary word or phrase does not by itself automatically confer rights or legitimate interests on a respondent (see e.g. *Solverde, S.A. v. Rojas Espinoza, Servicios de Lexicografía S.A. / Pierluigi Buccioli, Turn Invest Group Ltd*, WIPO-Case No. D2020-3138). In order to find rights or legitimate interests in a domain name based on its dictionary meaning, the domain name should be genuinely used, or at least demonstrably intended for such use, in connection with the relied-upon dictionary meaning and not to trade off third-party trademark rights. In the case at hand, it is to be noted that there is no evidence that the Respondent intends to use the disputed domain name in respect of a "running in casablanca"-product or service. In his two non-standard communications, the Respondent rather limited himself to mere allegations and explanations without any piece of evidence.

It is acknowledged that once the Panel finds a prima facie case has been established, the burden of production under the second element shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Respondent in the case at hand limited himself to come forward with some allegations; however, no evidence in support of these allegations have been submitted. Consequently, this Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant is therefore deemed to have satisfied paragraph 4(a)(ii) of the Policy.

3.

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, in particular, but without limitation, be evidence of the disputed domain name's registration and use in bad faith.

One of those circumstances are those specified in paragraph 4(b)(iv), i.e., where the domain name is used to intentionally attempt to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.

It is undisputed between the Parties that the Respondent is using the disputed domain name to lead to a website featuring PPC-advertisement links. This is indicative of bad faith, even if the webpage is configured automatically by the registrar or any other party. Indeed, particularly with respect to "automatically" generated PPC-links, previous UDRP panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links ipso facto vest the respondent with rights or legitimate interests). Neither the fact that such links are generated by a third party such as a Registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith (see section 3.5 of WIPO Overview 3.0).

These facts confirm that the disputed domain name is used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Additionally, the Panel also considered the following factors as supporting these findings of bad faith registration and use:

(i) the fact that the at least the international mark, on which the Complainant relies, has been existing for more than 15 years and is protected also in Morocco, where the Respondent is located and

(ii) the Respondent hiding his identity behind a privacy shield.

On the other side, despite providing some allegations in his two non-standard communications, the Respondent did not provide any actual evidence of his alleged (i) intended use or preparations thereof, (ii) the existence of the sports group of people joining every Sunday at 8 am for running together in the Casablanca Forest called Bouskoura for two hours, or (iii) <Casa> being the de facto diminutive of Casablanca. Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, the Panel even undertook limited factual internet research on the afore-mentioned points and was not able to find any confirmation of these allegations.

Finally, the disputed domain name consists of the Complainant's trademark <courir>, which has been registered as a trademark (and therefore considered intrinsically distinctive) with protection also in Morocco, where French language is spoken by an important part of the population (as the registration of the disputed domain name by the Respondent evidences). The Panel is bound by these official decisions.

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **courir.casa**: Transferred

PANELLISTS

Name	Tobias Malte Müller
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DATE OF PANEL DECISION **2023-06-23**

Publish the Decision
