

Decision for dispute CAC-UDRP-105943

Case number	CAC-UDRP-105943
Time of filing	2023-11-08 09:46:39
Domain names	colasgroupe.com, colas-energies.com

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	COLAS
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Marc Gentil
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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 names (the "Domain Names").

IDENTIFICATION OF RIGHTS

The Complainant is the owner of a variety of registered trade marks that comprises or incorporated the term "COLAS". They include:

- International trade mark no. 753190 for COLAS as a word mark filed on 16 February 2001 in classes 1, 19 and 37 and proceeding to registration in 16 territories; and
- European Union trade mark no 10799559 for COLAS as a word mark in classes 1, 19 and 37 filed on 11 April 2012 and registered on 11 January 2013.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

The Complainant is the French company, a major player in transport infrastructure activities and which is present in three main businesses: roads (road construction and maintenance work), materials (production and recycling of construction materials, mainly aggregates and bitumen) and railways known worldwide under the COLAS mark. It employs around 58,000 people globally in 50 countries.

The Complainant's website is found at "www.colas.com", the related domain name for which was registered on 10 March 1997.

The Complainant's COLAS mark has been found to be "distinctive and well known" in *COLAS v. Elsa Linerud* WIPO Case No. D2023-2344.

The Domain Names were each registered on 22 October 2023 and each redirect to parking page with commercial links.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the Domain Names should be transferred to it.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that each of the Domain Names is identical or confusingly similar to a trade mark 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 each of the Domain Names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown that each of the Domain Names 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 Complainant has demonstrated trade mark rights for COLAS and the Domain Names can most sensibly be read at the term "Colas", combined with the ordinary words "groupe" or "energies" and the ".com" gTLD. Accordingly, the trade mark is clearly recognisable in each of the Domain Names. This is sufficient for a finding of confusing similarity under the Policy (see sections 1.7 of the WIPO Overview 3.0). The Complainant has, therefore, satisfied the requirements of paragraph 4(a)(i) of the Policy.

Notwithstanding that the Complainant has filed evidence that shows that each of the Domain Names have been used since registration to display what appear to be pay-per-clicks, it is not exactly why the Respondent has registered the Domain Name.

However, whatever the exact reasons why the Domain Names were registered, the Panel accepts in the absence of evidence or argument to the contrary that each of the Domain Names was registered by the Respondent with knowledge of the Complainant and its marks and with the intention to take some form of advantage of the reputation of the same.

Further and in any event, the Panel is persuaded that in the absence of evidence or argument to the contrary that each of the Domain Names impersonates the Complainant and that each Domain Name was registered with this deliberate intention.

In coming to these conclusions, the Panel has taken into account the fact that the term "colas" forming part of each of the Domain Names could conceivably refer to something other than Complainant. However, the Panel has been persuaded that the term "colas" in the Domain Names involves a deliberate reference to the Complainant, given that the Complainant is a considerable business based in France, the term "colas" has been combined with the French word for "group" or the French (albeit also the English word) "energies", those words are generic or descriptive terms that might be used in connection with the Complainant's business, and the Respondent has not used the term "colas" in a way that is unconnected with the Complainant.

There is no right or legitimate interest in holding a domain name for the purpose of impersonation and the registration and use of a domain name for such a purpose is registration and use of a domain name in bad faith (as to which see section 2.5.1 of the WIPO Overview 3.0 and also the reasoning in *Johnson & Johnson v. Ebubekir Ozdogan* WIPO Case No. D2015-1031, where the domain name in issue, apart from the top level domain, comprised the Complainant’s mark and a geographical term). It follows that the Complainant has also satisfied the requirements of paragraph 4(a)(ii) and (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. **colasgroupe.com**: Transferred
- 2. **colas-energies.com**: Transferred

PANELLISTS

Name	Matthew Harris
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DATE OF PANEL DECISION 2023-12-09

Publish the Decision