Decision for dispute CAC-UDRP-106107

Case number	CAC-UDRP-106107
Time of filing	2023-12-22 10:21:20
Domain names	algeco.shop

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ALGECO

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	MEI WANG

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of many trademarks “ALGECO” such as:

The international ALGECO no. 386452 registered on January 27, 1972; and

The international ALGECO no. 1099894 registered on October 21, 2011.

FACTUAL BACKGROUND

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

The Complainant was created in the early 1950’s, and its principal business throughout its lifespan has been modular space and secure storage solutions for businesses and public sector agencies, as per their website at: <www.algeco.fr>.

The Complainant also owns an important domain names portfolio, such as the domain name <algeco.com> registered since August 11, 1997.

The disputed domain name was registered on December 15, 2023 and redirects to a <Dan.com> page where it is offered for sale for

1450 USD.

PARTIES CONTENTIONS

COMPLAINANT:

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

The Complainant states that the disputed domain name <algeco.shop> is identical to its trademark “ALGECO”.

Indeed, the disputed domain name comprises the Complainant’s trademark without any addition or deletion. The Complainant contends that the addition of the New gTLD “.SHOP” does not change the overall impression of the designation as being connected to Complainant’s trademark. It does not prevent the likelihood of confusion between the disputed domain name and Complainant, its trademark and its domain names associated.

Finally, past Panel have confirmed the Complainant rights over the term “ALGECO”.

Thus, the disputed domain name is identical to the Complainant's trademark “ALGECO”.

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

The Complainant asserts that the Respondent is not known as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark “ALGECO”, or apply for registration of the disputed domain name by the Complainant.

Finally, the disputed domain name is offered for sale for 1450 USD. The Complainant contends this general offer to sell the disputed domain name is evidence of the Respondent’s lack of rights or legitimate interest.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

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

The Complainant contends that the disputed domain name is identical to its distinctive trademark “ALGECO”, registered decades before the registration of the disputed domain name.

Besides, the term “ALGECO” has no meaning in English or any language, and a search with the term "ALGECO" redirects to the Complainant and its activities. Moreover, the Complainant is the leader in modular construction in Europe.

Thus, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

Furthermore, the Complainant contends that the Respondent has registered the disputed domain name only in order to sell it back for out-of-pocket costs, which evinces bad faith registration and use.

On those facts, the Complainant contends that Respondent has registered the disputed domain name and is using it in bad faith.

RESPONDENT:

No administratively compliant Response was filed, and therefore no further information is known about the Respondent.

RIGHTS

To the satisfaction of the Panel, the Complainant has shown that the disputed domain name is identical or confusingly similar to the trademark 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. Identical or Confusingly Similar

First, the Panel is satisfied that the Complainant has shown it owns rights in the "ALGECO" trademarks, with registration and evidence provided dating the trademark registration back to at least 1972.

Turning to analyze if there is a confusing similarity between the disputed domain name and the trademark, the Panel notes, based on the record at hand, that the disputed domain name reproduces the trademark in its totality, namely "ALGECO".

Regarding the first element, the verbatim reproduction of the trademark is enough to find confusing similarity between the disputed domain name and the Complainant's trademarks.

Consequently, the Panel determines that the Complaint has satisfied the Policy's first element set under paragraph 4(a)(i).

2. Rights or Legitimate Interests

Based on the evidence on record and acknowledging that the Respondent failed to produce any allegations or evidence necessary to demonstrate its rights or legitimate interests in the disputed domain name, the Panel must turn to the uncontested facts, the arguments by the Complainant, and the balance of probability on the record at hand.

The uncontested facts indicate that a) the Respondent is not commonly known by the disputed domain name; b) the Respondent is not related to the Complainant; c) the Respondent is not authorized to carry out any business activity for the Complainant; d) the Respondent has no license or authorization to use the trademarks and e) the Respondent is offering the disputed domain name is offered for sale for 1450 USD.

Based on the above, the record at hand, and on the balance of probability, and considering that the Respondent has failed to respond to the Complainant's contentions, the Respondent has consequently not rebutted the prima facie case, as described in paragraph 2.1 of WIPO 3.0 Overview.

The evidence on record leads the Panel to conclude that the Respondent did not have rights or legitimate interests in the disputed domain name and the likely scenario is that the Respondent intended to sell the disputed domain name to the Complainant or a competitor in excess of the Respondent's documented out-of-pocket costs, however, this will be analyzed under the element below.

Consequently, the Panel determines that the Respondent has no rights or legitimate interests in the disputed domain name. Subsequently, the Complainant has fulfilled the second requirement set under paragraph 4(a)(ii) of the Policy.

3. Registered and Used in Bad Faith

Per the record and evidence at hand, the Panel finds that the Respondent was likely aware of the Complainant and had the Complainant's trademark in mind when registering the disputed domain name. This is further reinforced by the fact that the "ALGECO" trademark predates the registration of the disputed domain name. The disputed domain name utilizes the gTLD ".shop", which indicates that the Respondent knew or should have known about the Complainant's rights and wanted to benefit from the association of the trademark with the said gTLD when registering the disputed domain name.

Without any explanation from the Respondent, this is likely a scenario based on the record at hand and the balance of probabilities. It would appear then that the Respondent appears to have targeted the Complainant.

In addition, the Complainant provides evidence that would indicate that the Respondent registered the disputed domain name with

what would likely appear as the primary purpose of selling, renting, or otherwise transferring the domain name to the Complainant, who is the owner of the trademark or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name.

In light of the case's circumstances, based on the available records, the Panel finds that the Complainant has proven that the disputed domain name was registered and is used in bad faith according to paragraph 4(a)(iii) of the Policy.

4. Decision

For the preceding reasons and in concurrence with the provisions specified under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **algeco.shop**: Transferred

PANELLISTS

Name	**Rodolfo Rivas Rea**

DATE OF PANEL DECISION 2024-01-15

Publish the Decision