Decision for dispute CAC-UDRP-106133

Case number	CAC-UDRP-106133
Time of filing	2024-01-04 15:08:56
Domain names	roadtorolandgarros.com

Case administrator

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

Complainant

Organization	FEDERATION FRANCAISE DE TENNIS (FFT)

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	adam yan

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 numerous trademarks containing the expression “ROLAND GARROS”, such as the following international registrations:

- ROLAND GARROS n°459517 registered since April 1, 1981; and
- RG ROLAND GARROS n° 1370730 registered since January 24, 2017.

The Complainant has also registered numerous domain names including the trademark ROLAND GARROS, such as <rolandgarros.com> registered since April 21, 1999.

FACTUAL BACKGROUND

Founded in 1920, the FEDERATION FRANCAISE DE TENNIS (the Complainant) promotes, organizes and develops tennis in France. It counts more than 1.1 million licensees in 2023. The Complainant also provides representation of France in international meetings and organizes major tournaments such as the International of France at Roland Garros.

The International of France of Roland Garros, also called “French Open”, is the biggest tournament of the tennis season on clay and the only Grand Slam still competing on that surface.

The Complainant is the owner of numerous trademarks and domain names containing the expression “ROLAND GARROS”.

The disputed domain name <roadtorolandgarros.com> was registered on December 20, 2023, and resolves to a login page in Indonesian for a gambling, slot machines, and betting website.

The disputed domain name is, in the view of the Complainant, confusingly similar to the Complainant’s trademark ROLAND GARROS, because the trademark ROLAND GARROS is identically reproduced.

The Complainant asserts that the addition of the terms “ROAD TO” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark ROLAND GARROS. It does not change in the view of Complainant the overall impression of the designation as being connected to the Complainant’s trademark ROLAND GARROS. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant’s trademark and the domain name associated.

On the contrary, the Complainant states that the term “ROAD TO ROLAND GARROS” worsens the risk of confusion as it refers to a refereeing formation with the aim of becoming a linesman at Roland Garros.

Furthermore, the Complainant contends that the addition of the gTLD “.COM” does not change the overall impression of the designation as being connected to the Complainant’s trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

Thus, the disputed domain name is, in the view of the Complainant, confusingly similar to the Complainant's trademark, ROLAND GARROS.

The Complainant asserts that the Respondent is not identified in the Whois database 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 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 ROLAND GARROS, or apply for registration of the disputed domain name.

Furthermore, the disputed domain resolves to a login page in Indonesian for a gambling, slot machine and betting website. The Complainant therefore contends that the Respondent has registered the disputed domain name with the aim to attract internet users and to divert Internet traffic initially destined to the Complainant into its proper website by creating a likelihood of confusion. Moreover, the content of the website is unrelated to the disputed domain name. The Complainant claims this does not constitute a 'bona fide' offering of goods.

The disputed domain name is confusingly similar to the Complainant's trademark ROLAND GARROS. Given the distinctiveness of the Complainant's trademark and reputation, the Complainant can state that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark ROLAND GARROS, and therefore could not ignore the Complainant. Furthermore, the disputed domain name resolves to a login page in Indonesian for a gambling, slot machines and betting website. The Complainant contends that the Respondent registered and is using the disputed domain name to divert users, presumably for commercial gain, which is evidence of bad faith under Policy.

Consequently, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

PARTIES CONTENTIONS

Complainant´s contentions are summarised above.

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.

PRINCIPAL REASONS FOR THE DECISION

1. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark ROLAND GARROS based on the trademark registration and the related trademark certificates submitted as annexes to the Complaint.

In the case at hand, the Complainant's trademark ROLAND GARROS is entirely reproduced in the disputed domain name, with the mere addition of the descriptive term "ROAD TO" and of the gTLD ".com", which is commonly disregarded under the first element confusing similarity test.

As found in a number of prior cases decided under the Policy, where a trademark is recognizable within a domain name, the addition of generic or descriptive terms does not prevent a finding of confusing similarity under the first element.

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights according to paragraph 4(a)(i) of the Policy.

2. Rights or Legitimate Interests

The Complainant must show that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating, in particular but without limitation, according to paragraph 4(c) of the Policy, any of the following:

"(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

It is well established that the burden of proof lies on the complainant. However, proving a lack of the respondent's rights or legitimate interests in respect of the domain name according to paragraph 4(a)(ii) of the Policy is potentially onerous, since proving a negative can be difficult considering such information is often primarily within the knowledge or control of the respondent.

Accordingly, in line with the UDRP precedents, it is sufficient that the complainant shows a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain name in order to shift the burden of production on the respondent. If the respondent fails to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy or on any other basis, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Panel finds that the Complainant has made a prima facie case and that the Respondent, by not having submitted a Response, has failed to demonstrate rights or legitimate interests in the disputed domain names in accordance with paragraph 4(c) of the Policy.

Moreover, it has been repeatedly stated that when a respondent does not avail himself of its right to respond to a complaint, it can be assumed in appropriate circumstances that the respondent has no rights or legitimate interests in the disputed domain name

(Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim, WIPO Case No. D2003-0269).

In view of the above, the Panel finds that the Respondent is not making a bona fide offering of goods or services under the disputed domain name. Moreover, since the Respondent's activity on its website is clearly commercial in nature, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names.

Furthermore, the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained authorization to use the Complainant's trademarks and there is no evidence that the Respondent might be commonly known by the disputed domain names.

Thus, in light of the above, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names, in accordance with paragraph 4(a)(ii) of the Policy.

3. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain name was registered and is being used by the Respondent in bad faith.

The disputed domain name is confusingly similar to the Complainant's trademark ROLAND GARROS. Given the distinctiveness of the Complainant's trademark and reputation, the Panel finds that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark ROLAND GARROS, and therefore could not ignore the Complainant. Furthermore, the disputed domain name resolves to a login page in Indonesian for a gambling, slot machines and betting website. The Panel finds that the Respondent registered and is using the disputed domain name to divert users, presumably for commercial gain, which is evidence of bad faith under Policy.

Consequently, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

Therefore, the Panel finds that the Complainant has also proven the requirement prescribed by 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. **roadtorolandgarros.com**: Transferred

PANELLISTS

Name	**Jan Schnedler**

DATE OF PANEL DECISION 2024-01-30

Publish the Decision