Decision for dispute CAC-UDRP-106124

Case number	CAC-UDRP-106124
Time of filing	2024-01-03 09:38:51
Domain names	courir-fr.shop

Case administrator

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

Complainant

Organization	GROUPE COURIR

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Lin Jie

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 several trademarks COURIR, such as:

- The Complainant is the owner of several trademarks COURIR, such as:
- The international trademark COURIR n° 941035 registered since September 25, 2007;
- The European trademark COURIR n° 006848881 registered since November 26, 2008;
- The international semi-figurative trademark C COURIR n° 1221963 registered since July 9, 2014;
- The European trademark COURIR n° 017257791 registered since March 7, 2017.

The Complainant has also registered numerous domain names including the trademark COURIR, such as the official domain name <courir.com> since February 16, 1998 and <courir.fr> registered since September 20, 1999.

The disputed domain name <courir-fr.shop> was registered on December 25, 2023 and resolved to a website displaying the Complainant's trademark and logo COURIR, and allegedly selling the products that competes with those sold by the Complainant at discounted prices. It now resolves to a website under maintenance.

FACTUAL BACKGROUND

The Complainant is active in the sneaker fashion industry. The COURIR stores are aimed at an urban clientele from 15 to 25 years old. With its selection of sneakers, ready-to-wear and fashion accessories for men, women and children, the Complainant has 187 stores and 70 affiliated stores in France. The Complainant is also present internationally, with 57 stores located in Spain, Belgium, Luxembourg and in the Maghreb, the Middle East and overseas territories.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

COMPLAINANT:

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

(Policy, Paragraph 4(a)(i); Rules, Paragraphs 3(b)(viii), (b)(ix)(1))

The Complainant states that the disputed domain name <courir-fr.shop> is confusingly similar to its trademark COURIR. Indeed, the domain name includes it in its entirety.

Moreover, the Complainant asserts that the addition of the geographical abbreviation “FR” for “France” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark. It does not change the overall impression of the designation as being connected to the Complainant’s trademark.

According to the Complainant the addition of the geographical term “FR” worsens the risk of confusion as it refers to the Complainant’s country.

Moreover, 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. Please see WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A. (“It is also well established that the specific top level of a domain name such as “.com”, “.org” or “.net” does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.”).

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

(Policy, Paragraph 4(a)(ii); Rules, Paragraph 3(b)(ix)(2)

The Complainant asserts that the Respondent is not known as the disputed domain name.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. 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 COURIR, or apply for registration of the disputed domain name by the Complainant.

Furthermore, the disputed domain name redirected to the website displaying the Complainant’s trademark and logo COURIR, and allegedly sold the products that competes with those sold by the Complainant at discounted prices. The Complainant asserts that the domain name was used to host a website in order to impersonate Complainant and attempt to mislead consumers into thinking that the goods purportedly offered for sale on the website originated from the Complainant. Such use demonstrates neither a bona fide offering of goods nor a legitimate interest of Respondent (Arkema France v. Aaron Blaine, WIPO Case No. D2015-0502).

Furthermore, there was no information/disclaimer on the page of the Website to identify its owner, and the Respondent identified itself as “Courir” in the “About us” section at the bottom of the website. Therefore, the Respondent failed at least in one of the elements of the Oki Data test, i.e. the website linked to the disputed domain name does not disclose accurately and prominently the registrant’s relationship with the trademark holder.

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.

C. The disputed domain name was registered and is/are being used in bad faith.

(Policy, paragraphs 4(a)(iii), 4(b); Rules, paragraph 3(b)(ix)(3))

The Respondent has registered the domain name **<courir-fr.shop>**, which is confusingly similar to Complainant's prior trademarks COURIR, many years after Complainant had established a strong reputation and goodwill in its mark.

Moreover, the Complainant’s logo and trademark COURIR was displayed on the website of the disputed domain name.

On those facts, given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks. Please see for instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.

Finally, the disputed domain name redirected to the website displaying the Complainant’s trademark and logo COURIR, and allegedly selling the products that competes with those sold by the Complainant at discounted prices. The Complainant finds that Respondent registered and used the domain name in bad faith to create confusion with Complainant’s trademarks for commercial gain by using the confusingly similar domain name to resolve to website offering counterfeit or unauthorized versions of products in direct competition with the Complainant’s products. Using a confusingly similar domain name to trade upon the goodwill of a complainant can evince bad faith under Policy 4(b)(iv).

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

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).

This is a case of adding a generic term - in this case "fr" for "France" - to a somewhat well-known trademark and in respect of the well-established practice that the specific top level of a domain name such as “.com” does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.

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).

Given the circumstances of the case, including the provided information of the use and reputation of the Complainant’s trademark COURIR and the distinctive nature of this mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant’s mark. The Panel, therefore, finds that the disputed domain name was registered in bad faith.

The disputed domain name does not currently resolve to an active website. In this case the Complainant has however evidenced that the Respondent has used the domain name to create confusion with Complainant’s trademarks for commercial gain by using the confusingly similar domain name to resolve to a website offering counterfeit or unauthorized versions of products in direct competition with the Complainant’s products.

It is inconceivable and not contradicted by the Respondent that the Respondent can use the disputed domain name for good faith use of the disputed domain name. The Panel notes in this connection that passive holding of a domain name does not prevent a finding of bad faith use under 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 three essential issues under the paragraph 4(a) of the Policy are whether:

    i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant

has rights; and

ii. the Respondent has no rights or legitimate interests with respect to the disputed domain name; and

iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain name, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant states and proves that the disputed domain name is confusingly similar to its trademarks and its domain names. Indeed, the trademark is partially incorporated in the disputed domain name.

The disputed domain name is therefore deemed confusingly similar.

b) The Respondent is not generally known by the disputed domain name and have not acquired any trademark or service mark rights in the name or mark, nor is there any authorization for the Respondent by the Complainant to use or register the disputed domain name.
The disputed domain name is not being used actively. Therefore, the Panel did not find any legitimate use nor rights on the Respondent to the trademark COURIR.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain name was registered. There is no present use of the disputed domain name but it is evidenced that the disputed domain name has been used to resolve to a website offering counterfeit or unauthorized versions of products in direct competition with the Complainant’s products. The use of the Complaint´s logo on the disputed domain name´s website indicates Respondent´s knowledge of the Complainant in time of registration of the disputed domain name. It is also concluded that the Respondent makes bad faith use of the disputed domain name.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) 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-fr.shop**: Transferred

PANELLISTS

Name	Lars Karnoe

DATE OF PANEL DECISION 2024-02-05

Publish the Decision