Decision for dispute CAC-UDRP-106550

Case number	CAC-UDRP-106550
Time of filing	2024-05-23 09:33:50
Domain names	couriroutlet-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	wang Wuu

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 the following trademarks:

- COURIR (word), International registration No. 941035, registered on 25 September 2007 for goods in classes 25 and 28, designating various countries, including China;

- COURIR (figurative), EU registration No. 006848881, registered on 26 November 2008 for goods in classes 25 and 28;

- COURIR, EU registration No. 017257791, registered on March 7, 2019 for services in class 35.

FACTUAL BACKGROUND

The Complainant is a French company, which sells sneakers, ready-to-wear and fashion accessories for men, women and children. Founded in 1980 the Complainant has rapidly developed a wide network of stores. Today, 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 in the overseas French territories. In total, the Complainant operates in 21 countries with more than 350 shops worldwide and 3300 people. In 2023, the Complainant generated a turnover of 724,8 million Euros.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
No administratively compliant Response has been filed. The Complainant's main arguments in support of its case are the following.

1. Confusing similarity

The Complainant affirms that the disputed domain name is confusingly similar to its trademark COURIR as this trademark is reproduced entirely in the disputed domain name. Moreover, the addition of the geographical abbreviation “fr” and the generic term “outlet” are not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark. These two terms are strictly connected to the Complainant’s trademark and therefore worsen the risk of confusion. Even the addition of the gTLD “.shop” contributes to the confusing similarity as it is connected with the Complainant's use of its trademark COURIR.

2. Lack of the Respondent's rights or legitimate interests in the disputed domain name

The Complainant asserts that the Respondent is not known by the disputed domain name and that the Respondent is not affiliated with, nor authorized by the Complainant to use the disputed domain name and to incorporate the Complainant's mark in the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The Respondent is using the disputed domain name to disrupt Complainant’s business and to attract users by impersonating the Complainant. Impersonation of a complainant, by using its trademark in a disputed domain name and seeking to defraud or confuse users, indicates a lack of rights or legitimate interests in the respondent.

3. Bad Faith

The Complainant maintains that the Respondent has registered and is being using the disputed domain name in bad faith.

With respect to registration in bad faith, the Complainant maintains that the Respondent has registered the domain name <couriroutlet-fr.shop>, which is confusingly similar to Complainant's prior trademark COURIR, many years after Complainant had established a strong reputation and goodwill in its mark. Indeed, the Complainant’s trademark COURIR is widely known; previous UDRP panels have confirmed the reputation of this mark. Moreover, the addition of the country code “fr” and the term “outlet” in the disputed domain name cannot be coincidental as they refer to the Complainant’s country and activities. Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's COURIR trademark and therefore in bad faith.

With respect to use in bad faith, the Complainant points out that the disputed domain name resolves to an online store displaying the Complainant’s trademark and logo COURIR and selling clothes and shoes at discounted prices. Therefore, the Complainant contends that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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, which is considered use in bad faith under paragraph 4(b) (iv) of the Policy.

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. Confusing similarity

The Panel finds that the disputed domain name is confusingly similar to the Complainant's COURIR mark. The disputed domain name incorporates this mark entirely along with the term "outlet" and the geographical abbreviation "fr", separated by a hyphen. Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms, including descriptive terms, such as those mentioned above, would not prevent a finding of confusing similarity under the first element of the Policy. The nature of such additional terms may however bear on assessment of the second and third elements (see paragraph 1.8 of the WIPO Overview 3.0).

Accordingly, the Panel is satisfied that the first condition under the Policy is met.

2. Rights or Legitimate Interests

According to the steady case law, a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Based on the available evidence, the Respondent does not appear to be commonly known by the disputed domain name. The Respondent's name does not coincide with the disputed domain name or with the trademark COURIR and there are no other elements in the case file that could support the conclusion that the Respondent is commonly known by the disputed domain name.

Furthermore, the Complainant maintains that the Respondent is not affiliated with the Complainant, is not a Complainant's licensee, and has not been authorised to include its COURIR trademark in the disputed domain name and to use it on the Respondent's website. The Respondent has not filed a Response and therefore has not objected to the Complainant's arguments.

Nor does the Respondent appear to be using the disputed domain name in connection with a bona fide offering of goods or services or as a legitimate noncommercial or fair use. Already the intrinsic nature of the disputed domain name carries a high risk of implied affiliation. The disputed domain name incorporates the Complainant's COURIR mark entirely, followed by the word "outlet", which is strictly connected with the Complainant's activity, and the geographical abbreviation "fr", which stands for France, the country where the Complainant is located. The gTLD of the disputed domain name is a term associated with the Complainant's activity.

Moreover, the use of the disputed domain name should also be taken into account to assess legitimate or fair use of the disputed domain name, or a bona fide offering of goods or services. In the present case, the Respondent is using the disputed domain name to access a website that prominently displays the Complainant's trademark and logo and offers for sale, at heavily discounted prices, the same products that the Complainant offers for sale under its COURIR trademark. In light of these circumstances, Internet users looking for the Complainant could easily erroneously believe that the disputed domain name belongs to the Complainant or to any of its affiliates, and that the corresponding website is dedicated to the Complainant's discount offers. Accordingly, this use of the disputed domain name cannot amount to a bona fide offering of goods or services or to 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 at issue. Rather, it appears that the Respondent obtained the disputed domain name to take advantage of the Complainant’s mark.

In light of the foregoing, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

Thus, the second condition under the Policy is met.

3. Bad Faith

In light of the general circumstances of the case, the Panel finds that it is not conceivable that the Respondent was not aware of the Complainant and of its mark at the time of the registration of the disputed domain name. In particular, the Panel notes the nature of the disputed domain name, which incorporates the Complainant's trademark followed by the name "outlet", referring to the Complainant's activity, and the geographical abbreviation "fr", referring to the Complainant's country of origin and place where it mainly operates. The Panel further notes that the Respondent has selected the gTLD ".shop" for the disputed domain name, which is strictly related to the Complainant's business. Furthermore, the Respondent is using the disputed domain name to resolve to a website displaying the Complainant's COURIR mark and logo and offering for sale the same products of the Complainant at heavily discounted prices. The registration of a domain name confusingly similar to the Complainant's mark without rights or legitimate interests amounts to registration in bad faith.

As far as use is concerned, the Panel finds that the Respondent is being using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to its web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site. The Panel also finds that the disputed domain name is highly misleading for Internet users who could believe that it belongs to the Complainant or to one of its affiliates.

Moreover, through the disputed domain name and the corresponding website, the Respondent is seeking to impersonate the Complainant to divert the Complainant's consumers to its website and to lure them into buying the same products displayed on the Complainant's website but at very reduced prices. Therefore, the Respondent is targeting the Complainant's mark and goodwill for its own economic advantage, which amounts to use in bad faith.

Accordingly, the Panel is satisfied that also the third and last condition of the Policy is met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **couriroutlet-fr.shop**: Transferred

PANELLISTS

Name	**Angelica Lodigiani**

DATE OF PANEL DECISION 2024-06-29

Publish the Decision