

ADMINISTRATIVE PANEL DECISION

AUBELIA v. Fatima Fradj, urriage

Case No. D2022-0042

1. The Parties

The Complainant is AUBELIA, France, represented by ADVANT Altana, France.

The Respondent is Fatima Fradj, urriage, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <urriage.com> (“Disputed Domain Name”) is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 5, 2022. On January 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 6, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 3, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 7, 2022.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on March 10, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a French holding company. Through its wholly owned subsidiary, Laboratories Dermatologiques d'Uriage, a skincare product brand with a presence in more than 70 countries worldwide, the Complainant has been using the URIAGE mark continuously since 1992.

The Complainant (both directly and indirectly) is also the owner of a number of trademark registrations for the URIAGE mark including, *inter alia*, French Trademark Reg. No. 1732473 registered on December 24, 1991, and International Trademark URIAGE Reg. No. 603480 registered on May 19, 1993, designating Australia, Colombia, European Union, Finland, United Kingdom, Georgia, Israel, Japan, Republic of Korea, Lithuania, Madagascar, Malaysia, New Zealand, Norway, African Intellectual Property Organization, Sweden, Singapore, Syrian Arab Republic, Thailand, Turkey, Uzbekistan, Zambia, Zimbabwe (Protocol), Armenia, Austria, Bosnia and Herzegovina, Bulgaria, Benelux, Belarus, Switzerland, China, Cuba, Cyprus, Czech Republic, Germany, Algeria, Egypt, Croatia, Hungary, Islamic Republic of Iran, Italy, Kyrgyzstan, Spain, Democratic People's Republic of Korea, Kazakhstan, Liechtenstein, Latvia, Monaco, Morocco, Republic of Moldova, Montenegro, Mongolia, Mozambique, Poland, Portugal, Romania, Russian Federation, Serbia, Spain, Sudan, Slovenia, Slovakia, San Marino, Ukraine, Viet Nam (the "Complainant's Trademark"). The Complainant also owns over 40 domain names containing the name "uriage", including, *inter alia*, <uriage.com> (the "Complainant's Domain Name") which resolves to the Complainant's website.

The Disputed Domain Name was registered on September 30, 2021, nearly three decades after the Complainant's Trademark was first registered. The Disputed Domain Name resolves to an inactive Website.

5. Parties' Contentions

A. Complainant

The Complainant's primary contentions can be summarised as follows:

(a) The Disputed Domain Name is confusingly similar to the Complainant's Trademark and the Complainant's Domain Name. The only element which differentiates the Disputed Domain Name from the Complainant's Trademark is the addition of the letter "r" to the middle of "uriage" to read "urriage", which enhances the confusion. In addition, the Complainant's registration of numerous iterations of the Complainant's Domain Name reinforces likelihood of confusion which can be caused by the Disputed Domain Name.

(b) The Respondent does not have any rights or legitimate interests in the Disputed Domain Name. The registration of the Disputed Domain Name is associated with an attempt to defraud a major distributor of the Complainant. The Respondent hacked into an employee's email box to access emails and contacted the distributor by replying to emails and impersonating one of the Complainant's employees through use of an email address with the Disputed Domain Name (axxxx.axxx@urriage.com). The Respondent does not have any intellectual property rights to use the mark "uriage" or the Disputed Domain Name. The Complainant has never authorized or given permission to the Respondent, who is not associated with the Complainant in any way, to use the Complainant's Trademark or to register the Disputed Domain Name. In the absence of authorization from the Complainant to use the Complainant's Trademark, no legitimate use could be reasonably claimed by the Respondent.

(c) Both the Respondent's registration of and its use of the Disputed Domain Name establish the Respondent's bad faith. The Respondent was fully aware of the existence of the Uriage Group when she acquired the Disputed Domain Name and used a privacy service to avoid being identified by the Complainant. Moreover, the Respondent used the Disputed Domain Name and impersonated the Complainant's employee in emails in an attempt to defraud a distributor of the Complainant. In so doing, the Respondent's actions amounted to bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 in respect of the Disputed Domain Name; and
- (iii) the Disputed Domain Name has been registered and is being used by the Respondent in bad faith.

The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favour of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#), and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark, based on its trademark registration listed above in Section 4.

It is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the generic Top-Level Domain ("gTLD") extension, ".com" in this case, may be disregarded. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the letter "r" in the middle of "Uriage". UDRP panels have consistently found that the intentional misspelling of a trademark will not alter the fact that the domain name at issue is confusingly similar to the mark in question. See section 1.9 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the mere addition of the letter "r" does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in the Disputed Domain Name, the Respondent then carries the burden of demonstrating that it has rights or legitimate interests in the domain name. Where the Respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts that the Complainant has not authorised the Respondent to use the Complainant's Trademark, and there is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name. As the Respondent has not submitted a Response, the Panel will assess the case based on the reasonable inferences that can be drawn from the Complainant's evidence.

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services;
- (ii) the Respondent has been commonly known by the Disputed Domain Name, even if she has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate non-commercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services. The Panel is of the view that the Respondent's registration and her use of the Disputed Domain Name cannot be regarded as legitimate non-commercial or fair use as the Disputed Domain Name was used in an attempt to defraud a major distributor of the Complainant. The Respondent appears to have registered the Disputed Domain Name solely for the purpose of misleadingly third parties into thinking that the Respondent is, in some way or another, connected to, or affiliated with the Complainant and its business, or that the Respondent's business activities are approved or endorsed by the Complainant.

In addition, no evidence has been provided to prove that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent is commonly known by the Disputed Domain Name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

UDRP panel has consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity can already by itself create a presumption of bad faith. See paragraph 3.1.4 of the [WIPO Overview 3.0](#).

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the letter "r". A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "urriage" are the Complainant's products and third party websites providing information relating to the Complainant's products. Therefore, taking this into consideration, the Respondent must have been aware of the Complainant and the Complainant's Trademark rights when registering and using the Disputed Domain Name.

In addition, the Panel finds that the following factors further support a finding that the Disputed Domain Name was registered and is being used by the Respondent in bad faith:

(i) The Respondent failed to respond to the Complainant's contentions and has provided no evidence of any actual or contemplated good faith use by it of the Disputed Domain Name.

(ii) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name contains the Complainant's Trademark in its entirety (with the addition of the letter "r"). Moreover, the Respondent used the Dispute Domain Name in an attempt to fraudulently procure monetary transfers from a distributor of the Complainant.

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name <urriage.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: March 24, 2022