

## **ADMINISTRATIVE PANEL DECISION**

Caroll International v. Catry Catry  
Case No. D2023-4616

### **1. The Parties**

The Complainant is Caroll International, France, represented by MIIP MADE IN IP, France.

The Respondent is Catry Catry, United States of America (“United States”).

### **2. The Domain Name and Registrar**

The disputed domain name <carollonlines.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 7, 2023. On November 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 8, 2023, 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 (PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 9, 2023, 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 November 13, 2023.

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 November 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 5, 2023.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on December 11, 2023. 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 fashion company established in 1963 engaged in the distribution of clothing items.

It uses the designation CAROLL as a business name and for the sale of its clothing products. CAROLL is protected by numerous trademark registrations around the world according to Annex 3 to the Complaint, including but not limited to the following:

- European Union trademark no. 009892431 CAROLL (word), registered on September 16, 2011, for goods in Classes 14, 18 and 25;
- French trademark no. 1233265 CAROLL (word), registered on April 15, 1983, for goods in Classes 18 and 25;
- International trademark no. 1208979 CAROLL (figurative), registered on February 25, 2014, with designations of protection in numerous jurisdictions worldwide including the United States of America, for goods and services in Classes 18, 25, and 35.

The Complainant's products are sold via more than 500 stores in France and abroad as well as its official website under the domain name <caroll.com>, which is registered on behalf of the Complainant since 1997.

The disputed domain name was registered on November 1, 2023. Although it currently does not resolve to any active websites, at the time of the filing of the Complaint, the disputed domain name resolved to a website allegedly selling products branded CAROLL and reproducing text, pictures, and products from the Complainant's official website, as seen from the screenshots of the Respondent's website at Annex 8 to the Complaint.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is highly distinctive and reproduces the sign CAROLL in its entirety, in which the Complainant owns rights. The added element "onlines" is merely generic. Thus, the addition of this term to the word CAROLL within the disputed domain name does not prevent a finding of confusing similarity between the trademark, in which the Complainant owns rights, and the disputed domain name.

Further, the Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name. According to a search in a global trademark database performed by the Complainant as per Annexes 5 and 10, the Respondent owns no trademarks in respect of the designations CAROLLONLINES or CAROLL ONLINES. There is no business or legal relationship between the Complainant and the Respondent, and the Complainant has never authorized or licensed the Respondent to use the trademark in any way. Online searches performed using the terms CAROLLONLINES or CAROLL ONLINES do not lead to the Respondent, but in the first place to the Complainant, see Annex 7. Thus, there is no justified reason for the Respondent to have registered the disputed domain name. The Complainant concludes by pointing to the use made by the Respondent at the time of the filing of the Complaint, which

was to a website allegedly selling CAROLL branded products and copying the website of the Complainant in order to mislead consumers. This, so the Complainant, clearly reflects the absence of any rights or legitimate interests on the side of the Respondent.

On the third element, the Complainant claims that the Respondent has registered and is using the disputed domain name in bad faith. The CAROLL trademark is, according to the Complainant, well known due to long-standing and successful use. To support this, the Complainant points to numerous advertising campaigns and press clippings over the past decades, to social media figures and turnover figures of more than EUR 182 million per year in the past decade. The Respondent has employed a privacy service to hide its true identity and has provided false identity information to the Registrar of the disputed domain name. All of this, so the Complainant, shows the registration in bad faith. Further, by the way that the disputed domain name was used, namely a false impersonation of the Complainant, the Respondent has intentionally attempted to take advantage of the reputation of the Complainant's well-known CAROLL brand to generate profits. According to research of the Complainant as per Annex 9, the website under the disputed domain name was even listed as scam, meaning that consumers who actually order products on the website to which the disputed domain name resolved may never receive the products, plus the Respondent collected their banking details.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the CAROLL mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The use of the additional term "onlines" to compose the disputed domain name carries a risk of implied affiliation with the Complainant and thus, cannot confer rights or legitimate interests of the Respondent in the disputed domain name.

Moreover, Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off of the Complainant in order to mislead consumers for commercial gain, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. While perhaps an argument could be made that the website to which the disputed domain name previously resolved was intended to offer services as an online reseller or distributor of the Complainant's clothes, given the descriptive addition of "onlines", however such "fair use" would need to fall within the cumulative requirements of the "Oki Data test" enshrined in section 2.8 of the [WIPO Overview 3.0](#). However, the disputed domain name would not pass such test given its lack of disclaimer as to its (lack of) relationship to the Complainant, exacerbating the implied affiliation caused by the confusingly similar disputed domain name composition. Overall, given that the disputed domain name was previously flagged in connection with a potential scam, it seems clear that the Respondent has no rights or legitimate interests in the disputed domain name regardless of its current inactive state.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has registered the disputed domain name reproducing the trademark of the Complainant, which predates the registration of the disputed domain name by decades, in its entirety together with the descriptive term "onlines" and uses it for a website allegedly selling CAROLL branded goods and impersonating the Complainant by copying website content of the Complainant's website at <caroll.com>. Thus, it is clear that the Respondent directly targeted the Complainant upon registration as well as use.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity, here, claimed impersonation/passing off of the Complainant as supported by the evidence on file indicating that the website is a scam, in combination with fraudulent conduct constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Finally, the Panel emphasizes that the change of use of the disputed domain name after the filing of the Complaint does not prevent the finding of bad faith but further reflects that the Respondent had no good faith explanation for registration and prior use of the disputed domain name, which also supports a finding that there is likely no plausible good faith use to which the disputed domain name could be put by the Respondent.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy.

## **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 <carollonlines.com> be transferred to the Complainant.

*/Andrea Jaeger-Lenz/*

**Andrea Jaeger-Lenz**

Sole Panelist

Date: December 25, 2023