

ADMINISTRATIVE PANEL DECISION

Ares Management LLC v. Omelchenko Aleksei
Case No. D2023-0836

1. The Parties

The Complainant is Ares Management LLC, United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

The Respondent is Omelchenko Aleksei, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <aresmngt.net> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 23, 2023. On February 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 25, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 March 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 30, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on April 6, 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, together with its parent company Ares Management, L.P., has, since at least 1997, traded under the ARES mark as a global alternative asset manager, currently having USD 352 billion of assets under management and over 2,500 employees. The Complainant's mark has been recognised as well-known by prior UDRP panels (see *e.g. Ares Management LLC v. Garry. K / Ares Acquisitions*, WIPO Case No. [D2018-2093](#)).

The Complainant owns trade mark registrations for its mark in many jurisdictions, including United States trade mark registration No. 3,014,171 ARES in class 36 with registration date November 8, 2005. Since March 19, 2002, the Complainant has owned the domain name <aresmgmt.com> and has used it to promote its services since at least 2007.

The Domain Name was registered on December 6, 2022, and currently does not resolve to an active website. The Complainant's evidence establishes that the Domain Name previously resolved to a cryptocurrency investment website entitled "ARES", prominently featuring a replica of the Complainant's logo and referring to "Ares Management".

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its ARES mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and has been used in bad faith given that it has been used to impersonate the Complainant for the Respondent's commercial gain.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's registered ARES mark is wholly contained within the Domain Name as its first element. Where the trade mark is recognisable within the disputed domain name (as in this case), the addition of other terms does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's mark was registered and well known long prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark, the Complainant has certified that the Domain Name is unauthorised by it, and the Respondent did not file a Response.

The general impression created by the Domain Name's erstwhile website, including use of the Complainant's distinctive, trade marked logo and corporate name "Ares Management", is one of impersonation of the Complainant. UDRP panels have categorically held that the use of a domain name for illegal activity (*e.g.* impersonation) can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#) at section 2.13.1).

There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy, nor any others which might confer rights or legitimate interests upon the Respondent, pertain. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

UDRP panels have consistently found that registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term, as in this case as discussed below) to a famous or well-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at section 3.1.4).

It is well accepted that impersonation is clear evidence of bad faith registration and use (*FLRish IP, LLC v. prince zvomuya*, WIPO Case No. [D2019-0868](#)). That impersonation was the intention of the Respondent upon registration of the Domain Name, and that the Respondent was aware of and targeted the Complainant's mark, is clear from the evidence presented by the Complainant showing that the Domain Name's erstwhile website made prominent use of the Complainant's unique logo and name in connection with services that could be construed as being within the Complainant's purview of investment services.

The Domain Name incorporates the term "mngt", which is, based on the explicit text of the Domain Name's erstwhile website, a clear reference to "management". This also betrays an intention to impersonate the Complainant, whose corporate name consists of "Ares Management" and whose own domain name - <aresmngt.com> - is virtually identical to the Domain Name. It is thus quite clear that the Domain Name has been used for the Respondent's own commercial gain by taking unfair advantage of the repute of the Complainant's mark in order to attract users to the Respondent's cryptocurrency investment scheme. Paragraph 4(b)(iv) of the Policy is eminently applicable. The fact that the Domain Name currently does not resolve to an active website does not prevent a finding of bad faith.

The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

The Complainant has satisfied paragraph 4(a)(iii) 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 Domain Name, <aresmngt.net>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: April 20, 2023