

ADMINISTRATIVE PANEL DECISION

Groupe Courir v. chen chen
Case No. D2024-0801

1. The Parties

The Complainant is Groupe Courir, France, represented by Nameshield, France.

The Respondent is chen chen, China.

2. The Domain Name and Registrar

The disputed domain names <courir-france.shop> and <courir-sale.shop> (the “Disputed Domain Names”) are registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 22, 2024. On February 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On February 23, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names which differed from the named Respondent and contact information in the Complaint (UNKNOWN, Wilayah Persekutuan, MALAYSIA). The Center sent an email communication to the Complainant on February 26, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed amended Complaint on February 26, 2024.

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 March 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 3, 2024.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on April 8, 2024. 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 company active in the retail of sneakers, ready-to-wear and fashion accessories. The Complainant appears to have over 180 stores in France and over 40 stores located i.a. in Spain, the Maghreb, the Middle East and overseas territories.

The Complainant holds various registered trademarks consisting of or including COURIR, including the following:

- COURIR, international word mark registered under No. 941035 on September 25, 2007 in classes 25 and 28, covering several countries including China;
- international figurative marks depicted below, registered under No. 1221963 on July 9, 2014, in class 35:



The Complainant also owns the domain name <courir.com> which resolves to its official website.

The Disputed Domain Names were registered on the following dates:

- <courir-sale.shop>: February 13, 2024
- <courir-france.shop>: February 18, 2024;

According to the Complainant's evidence, the Disputed Domain Names resolved to an online store displaying the Complainant's trademarks and logo and offering for sale clothes and shoes at discounted prices. The Panel observes that the Disputed Domain Names currently resolve to a web page mentioning that "The website is under maintenance".

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 Names.

Notably, the Complainant contends that the Disputed Domain Names are confusingly similar to a trademark in which it claims to have rights.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names. The Complainant contends that:

- the Respondent is not identified in the Whois database as the Disputed Domain Names;
- the Respondent is not known by the Complainant, and is not affiliated with nor authorized by the Complainant in any way;
- the Respondent uses the Disputed Domain Names to disrupt the Complainant's business and to attract users by impersonating the Complainant, as the Respondent identified itself as "COURIR" in the "About us" section of the website linked to the Disputed Domain Names;

- this indicates a lack of rights or legitimate interests.

Finally, the Complainant claims that the Disputed Domain Names were registered and are being used in bad faith. According to the Complainant:

- given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the Disputed Domain Names with full knowledge of the Complainant's trademarks;
- using a domain name in order to offer competing goods or services has often been held to disrupt the business of the owner of the relevant mark is bad faith;
- by using the Disputed Domain Names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

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 Names. 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 Disputed Domain Names both incorporate the Complainant's COURIR mark in its entirety. Therefore, the Panel finds the Disputed Domain Names are confusingly similar to the Complainant's mark for the purposes of the Policy. In the Panel's view, the addition of other terms such as "sale" or "france" does not prevent a finding of confusing similarity between the Disputed Domain Names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is well established that generic Top-Level-Domains ("gTLDs"), here ".shop", may be disregarded when considering whether the Disputed Domain Names are confusingly similar to a trademark in which the Complainant has rights. [WIPO Overview 3.0](#), section 1.11.

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 Names. 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 Names such as those enumerated in the Policy or otherwise.

The Panel notes that the Respondent does not appear to be commonly known by the Disputed Domain Names, and that the Respondent does not seem to have acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is "chen chen". The Respondent's use and registration of the Disputed Domain Names was not authorized by the Complainant.

Fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner. The correlation between a domain name and the complainant's mark is often central to this inquiry. Even where a domain name consists of a trademark plus an additional term, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

The Disputed Domain Names incorporate the Complainant's COURIR trademark in its entirety and merely add a hyphen and the descriptive terms "sale" and "france" respectively. In the Panel's view, these terms can be easily linked to the Complainant as the Complainant is active in the retail business and the vast majority of its stores are located in France. Therefore, the Panel finds that the Disputed Domain Names carry a risk of implied affiliation with the Complainant and cannot constitute fair use.

Beyond looking at the disputed domain name(s) and the nature of any additional terms appended to it, UDRP panels assess whether the overall facts and circumstances of the case, including the content of the website linked to the disputed domain name(s) and the absence of a response, support a fair use or not. [WIPO Overview 3.0](#), sections 2.5.2 and 2.5.3.

According to the Complainant's evidence, the Disputed Domain Names resolved to an online store displaying the Complainant's trademarks and logo and offering for sale, at discounted prices, products identical or similar to the products sold by the Complainant. The Panel finds that this does not amount to a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the Disputed Domain Names.

Moreover, the Respondent does not accurately and prominently disclose its (absence of) relationship with the Complainant. As a result, the Respondent fails the so-called "Oki Data test" for legitimate resellers, distributors or service providers of a complainant's goods or services. *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) and [WIPO Overview 3.0](#), section 2.8.1.

In fact, it appears that the Respondent identified itself as the Complainant in the "About us" section of the website linked to the Disputed Domain Names.

In the Panel's view, the above elements are indications of illegal activity using the Disputed Domain Names. UDRP panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods, phishing, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.

The Panel observes that the Disputed Domain Names currently resolve to an "Under maintenance" webpage. In the Panel's view, this does not amount to any legitimate noncommercial or fair use or use in connection with a bona fide offering of goods and services.

The Respondent had the opportunity to demonstrate his rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

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.

As established above, the Disputed Domain Names appeared to resolve to a website offering products for sale at discounted prices which are identical or similar to products sold by the Complainant. Moreover, this website not only displayed the Complainant's COURIR word mark but also its figurative mark and logo as used on the Complainant's official website. In the Panel's view, this clearly indicates that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trademark. [WIPO Overview 3.0](#), section 3.2.1.

Other circumstances may be relevant in assessing whether a respondent's registration and use of domain names is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel finds that the Respondent must have been aware of the Complainant and its trademark rights when it registered the Disputed Domain Names as:

- the Disputed Domain Names incorporate the Complainant's trademark in its entirety, and combine it with terms which can be easily linked to the Complainant and its business;
- the Disputed Domain Names appeared to resolve to a website displaying the Complainant's COURIR marks and logo as used on the Complainant's official website;
- the Respondent seems to have offered for sale products identical or at least similar to the products sold by the Complainant;
- at least one of the Complainant's marks predates the registration of the Disputed Domain Names by more than 15 years, including in China where the Respondent appears to be located.

Finally, the Respondent did not formally take part in the administrative proceedings. According to the Panel, this serves as additional indication of the Respondent's bad faith.

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 Names <courir-france.shop> and <courir-sale.shop> be transferred to the Complainant.

/Flip Jan Claude Petillion/

Flip Jan Claude Petillion

Sole Panelist

Date: April 22, 2024