

## **ADMINISTRATIVE PANEL DECISION**

Europcar International S.A.S.U. v. Martina Zammit  
Case No. D2022-0449

### **1. The Parties**

The Complainant is Europcar International S.A.S.U., France, represented by Taylor Wessing LLP, United Kingdom (“UK”).

The Respondent is Martina Zammit, Malta.

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

The disputed domain name <europcar-greece.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 9, 2022. On February 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 14, 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 February 15, 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 21, 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 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 15, 2022.

The Center appointed Torsten Bettinger as the sole panelist in this matter on March 21, 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 was incorporated on October 30, 1995, and is part of the Europcar group of companies which specialises in car rental services (the "Europcar Mobility Group"). The Europcar Mobility Group operates across a network of 170 countries worldwide with approximately 200 airport locations in Europe and 600 around the world.

The Complainant owns a number of registrations for the EUROPCAR word and design marks, including the following:

- European Union trademark registration number 003993789 for EUROPCAR in classes 12, 36, and 39;
- UK trademark registration number UK00003274205 for EUROPCAR, registered on March 2, 2018, in classes 12, 35, 36, and 39; and
- United States of America trademark registration number 86883235 for EUROPCAR (device), registered on October 17, 2017, in class 39.

The Complainant is the owner of the domain name <europcar.com>, registered in March 1997.

The disputed domain name was registered on May 6, 2021, and resolves to a website purporting to offer the Complainant's trademarked services.

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

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

The Complainant states that it has established substantial international registered and unregistered rights in the trademark EUROPCAR and that the trademark is distinctive and famous across the world.

The Complainant provided screenshots of the disputed domain name, which mimicked the Complainant's website but in the Greek language, and the Complainant contends that the website is fake.

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

With regard to the requirement of identity or confusing similarity between the trademark and the disputed domain name pursuant to paragraph 4(a)(i) of the Policy, the Complainant asserts that:

- the disputed domain name reproduces identically the Complainant's trademark EUROPCAR in its entirety;
- the only difference between the disputed domain name and the EUROPCAR trademark is the addition of the geographical term "greece";
- for the purposes of assessing identity and confusing similarity under paragraph 4(a)(i) of the Policy, the common or generic word should be disregarded when comparing the disputed domain name with the Complainant's trademark.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submitted that:

- that it has no connection with the Respondent or the disputed domain name and has not licensed or otherwise permitted the Respondent to use the Complainant's intellectual property;
- the Respondent does not use the disputed domain name or any name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services,
- there is no credible evidence that the Respondent is, or could be, making any legitimate noncommercial or fair use of the disputed domain name, especially since the disputed domain name is directing Internet users to a fake website that impersonates the Complainant;
- the Respondent is cybersquatting on the disputed domain name, possibly in the hope of obtaining future payment from the Complainant;

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant argues that:

- the disputed domain name resolves to a fake website;
- the Respondent has been acting in bad faith by purchasing the disputed domain name, possibly with the intention to generate revenue through click-through activity and perhaps also selling the disputed domain name to the Complainant for some sort of profit;
- the Respondent, possibly through its use of the Registrar's private domain registration service, has taken active steps to conceal its identity;
- there is no plausible use of the disputed domain name that would not interfere with the Complainant's trademarks as EUROPCAR is a distinctive trademark and an unusual word that is not in the English language dictionary.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three following 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 in bad faith.

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

The Complainant has demonstrated that it owns multiple trademark registrations for EUROPCAR.

It is well established that the test of identity or confusing similarity under the Policy is confined to a reasoned but relatively straightforward comparison of the disputed domain name and the trademark alone, independent of the products for which the trademark is used or other marketing and use factors usually

considered in trademark infringement cases. (See sections 1.1.2 and 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

In this case, the disputed domain name contains the EUROPCAR trademark in its entirety. As set forth in section 1.7 of the [WIPO Overview 3.0](#): “in cases where a domain name incorporates the entirety of a trademark [...] the domain name will normally be considered confusingly similar to that mark.” (See, e.g., *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) (“the fact that a domain name wholly incorporates a complainant’s registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy”).

Moreover, it has been held in many UDRP decisions and has become a consensus view among panels that, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether, e.g., descriptive, geographical or otherwise) does not prevent the finding of confusing similarity under the first element of the UDRP (see section 1.8 of the [WIPO Overview 3.0](#)). Accordingly, the addition of the term “greece” does not dispel the confusing similarity arising from the incorporation of the Complainant’s EUROPCAR trademark in the disputed domain name.

Finally, it is well accepted in past UDRP decisions that the generic Top-Level Domain (“gTLDs”), such as “.com”, “.net”, “.org”, is typically not to be taken into account when assessing the issue of identity and confusing similarity, except in certain cases where the applicable gTLD may itself form part of the relevant trademark (see section 1.11 of the [WIPO Overview 3.0](#)).

For the foregoing reasons the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s EUROPCAR trademark in which the Complainant has exclusive rights.

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

Pursuant to paragraph 4(c) of the Policy a respondent may establish its rights or legitimate interests in the domain name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [the Respondent] of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you [the Respondent] (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you [the Respondent] are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has asserted and presented evidence that the disputed domain name resolves to a website incorporating the Complainant’s EUROPCAR trademark and contends that the website is fake.

These assertions and evidence are sufficient to establish a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

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 disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent chose not to contest the Complainant’s allegations and has failed to come forward with any evidence to refute the Complainant’s *prima facie* showing that the Respondent lacks rights or legitimate

interests. The Panel therefore accepts these allegations as undisputed facts.

From the record in this case, the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, undisputed evidence provided by the Complainant, demonstrates that the Respondent has used the disputed domain name for a fake website impersonating 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. Here, the disputed domain name consists of the Complainant's trademark along with a geographical term and resolves to a website purporting to offer the Complainant's good, while using the Complainant's trademark, effectively impersonating or suggesting sponsorship or endorsement by the Complainant, contrary to the fact, which cannot constitute fair use.

The Panel therefore concludes that the Respondent has no rights or legitimate interest in the disputed domain name and that, accordingly, the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, 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.

The Complainant holds multiple trademark registrations for EUROPCAR that predate the registration of the disputed domain name.

Given that the Complainant's EUROPCAR mark was widely known at the time the Respondent registered the disputed domain name and is exclusively associated with the Complainant's car rental group, it is inconceivable that the Respondent coincidentally registered the disputed domain name without any knowledge of the Complainant and its EUROPCAR mark.

The Panel, therefore, concludes that the Respondent registered the disputed domain name in bad faith.

Based on the record in this proceeding it is also undisputed that the disputed domain name directs Internet users to a website impersonating the Complainant.

In light of the Complainant's long use of the EUROPCAR marks and the fact that the disputed domain name contains the Complainant's trademark in its entirety, it is likely that the Respondent has used the disputed domain name to attempt to defraud third parties by impersonating the Complainant. The Respondent's use

of a privacy service to hide its identity and failure to participate in this proceeding are further indicative of bad faith.

The Panel therefore infers that the Respondent, by using the disputed domain name in this manner, has intentionally created a likelihood of confusion with the Complainant's trademark for the Respondent's financial gain and that the Respondent is using the disputed domain name in bad faith.

Accordingly, the Panel finds that the Respondent also satisfied the requirements of 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 disputed domain name, <europcar-greece.com>, be transferred to the Complainant.

*/Torsten Bettinger/*

**Torsten Bettinger**

Sole Panelist

Date: April 4, 2022