

ADMINISTRATIVE PANEL DECISION

Ardian Holding v. Super Privacy Service LTD c/o Dynadot, Joe Walters, Erick Ardian, ARDIANC
Case No. D2022-0551

1. The Parties

The Complainant is Ardian Holding, France, represented by SCP Deprez, Guignot et Associés, France.

The Respondents are Erick Ardian, ARDIANC, United States of America (“United States”), and Super Privacy Service LTD c/o Dynadot, United States / Joe Walters, United States.

2. The Domain Names and Registrars

The disputed domain name <ardiancapital.com> is registered with registered with Dynadot, LLC and the disputed domain name <ardiancapitalgroup.com> is registered with Tucows Inc. (the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 17, 2022. On February 17, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On February 18, 2022, the Registrar Dynadot, LLC 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. On February 24, 2022, the Registrar Tucows Inc. 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. The Center sent an email communication to the Complainant on February 24, 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 March 1, 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 Respondents of the Complaint, and the proceedings commenced on March 3, 2022. In accordance with the Rules, paragraph 5,

the due date for Response was March 23, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondent's default on March 25, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on April 4, 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 Ardian Holding, a company organized under the laws of France and a private investment house with assets of USD 125 billion and more than 850 employees across Europe, Americas, and Asia.

The Complainant owns several trademark registrations in different jurisdictions for the trademark ARDIAN, including the International Trademark Registration No. 1175512, granted on June 6, 2013. The Complainant is also the owner of the domain name <ardian.com>, registered on March 20, 2003, which directs to its main website.

The disputed domain name <ardiancapital.com> was registered on December 24, 2021, and the disputed domain name <ardiancapitalgroup.com> was registered on January 1, 2022. Although the disputed domain names are currently inactive, according to the evidence submitted with the Complaint they previously resolved to websites offering financial services similar and related to those covered by the Complainant's trademark registration.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain names are subject to common control and treats the Respondents as one entity. Accordingly, all references will be to the "Respondent", with the issue of consolidation being addressed in further detail below.

The Complainant argues that the Respondent registered the disputed domain names without its authorization and that they incorporate its well-known and highly distinctive trademark ARDIAN with the generic terms "capital" and "group". The Complainant also says that these "dictionary terms" refer to its activities and that the disputed domain names are considered as confusingly similar to the Complainant's trademark.

The Complainant mentions that the Respondent was not authorized to register and use the mark ARDIAN and has no agreement, license or affiliation with the Complainant.

In addition, the Complainant informs that the disputed domain names were active to point to websites offering financial services and containing false and misleading information, which confirms the Respondent's lack of rights or legitimate interests in the disputed domain names, as well as its registration and use in bad faith.

According to the Complainant, in the content of the website corresponding to the disputed domain name <ardiancapitalgroup.com>, the Respondent displayed in the "contact information" that the company "Ardian Capital" is headquartered in France, but searches on the French Trade Register did not show any company under such name and also the office location was fake. The Complainant concludes that there is no *bona fide* offering of goods or services nor legitimate noncommercial or fair use of the disputed domain names by the Respondent.

The Complainant argues that it is evident that the Respondent knew of the Complainant's trademark when registered the disputed domain names, as its trademark ARDIAN is very well-known in its business segment.

In addition, the Complainant informs that the Respondent used a domain privacy company to hide its true identity, as an additional evidence of bad faith.

Finally, the Complainant requests the transfer of the disputed domain names.

B. Respondents

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

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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. Consolidation

Further to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1, "[p]aragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder". When considering a complaint filed against multiple respondents, section 4.11.2 of the [WIPO Overview 3.0](#) states that "panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario".

The Panel notes that both disputed domain names were registered within one month of each other, share similar domain name construction, both Respondents are allegedly located in the United States, and the disputed domain names had been actively used for similar copycat websites impersonating the Complainant, both of which are no longer active. Additionally, neither Respondent has objected to the consolidation or voiced any rebuttal as regards the allegations made by the Complainant.

Accordingly, the Panel finds that consolidation would be fair and equitable, that the disputed domain names are under common control, and will proceed with addressing both Respondents as "Respondent" going forward.

B. Identical or Confusingly Similar

The evidence demonstrates that the Complainant is the owner of trademark registrations for ARDIAN in different countries, as well as of the domain name <ardian.com>.

The disputed domain names incorporate the Complainant's trademark ARDIAN in its entirety. Prior UDRP panels have recognized that the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that the domain name is confusingly similar to the complainant's registered mark. See section 1.7, [WIPO Overview 3.0](#).

Indeed, the addition of the terms “capital” and “group” does not prevent a finding of confusing similarity between the disputed domain names and the Complainant’s trademark. In this regard, it is the general view among UDRP panels that the addition of merely dictionary, descriptive or geographical words to a trademark in a domain name does not avoid a finding of confusing similarity under the first element of the UDRP (see section 1.8, [WIPO Overview 3.0](#)).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain names are confusingly similar to the Complainant’s trademark.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant’s trademark or to register domain names containing the Complainant’s trademark ARDIAN.

There is no evidence that the Respondent is commonly known by the disputed domain names.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services. Instead, the Complainant showed evidence that the disputed domain names were being used to mislead users, since the Respondent was offering financial services giving the impression that such websites belong to or were related to the Complainant.

Moreover, the construction of the disputed domain names themselves is such to carry a risk of implied affiliation that cannot constitute fair use. See section 2.5.1, [WIPO Overview 3.0](#).

The Panel finds that the use described above of the disputed domain names, which incorporate the Complainant’s trademark, does not correspond to a *bona fide* use of the disputed domain name under the Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

The trademark ARDIAN is registered by the Complainant in many jurisdictions, and has been used since a long time. The disputed domain names incorporate the Complainant’s trademark ARDIAN and the Respondent has no rights or legitimate interests in the disputed domain names.

The Complainant’s ARDIAN mark is indeed distinctive and is widely known in its field of activities. Thus, a domain name that comprises such a mark is already suggestive of the registrant’s bad faith when that registrant is unaffiliated with the trademark owner. See section 3.1.4 of the [WIPO Overview 3.0](#). In addition, the Panel notes that the disputed domain names include the descriptive terms “capital” and “group”, which in this case may serve as an additional evidence of the registration of the disputed domain names in bad faith, considering that these words are directly linked to the Complainant’s segment.

In addition to the above, the Complainant showed evidence that the disputed domain names were used by the Respondent to mislead users into believing that the corresponding websites were related to the Complainant, by offering financial services and reproducing false information.

The Respondent has chosen not to respond to the Complainant's allegations. According to the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#): "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant's trademark by misleading Internet users to believe that its websites belong to or is associated with the Complainant.

This Panel finds that the Respondent's attempt of taking undue advantage of the trademark ARDIAN for any commercial gain as described in paragraph 4(b)(iv) of the Policy has been demonstrated.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain names have been registered and are being used in bad faith.

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, <ardiancapital.com> and <ardiancapitalgroup.com>, be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: April 18, 2022.