

ADMINISTRATIVE PANEL DECISION

Goldcar Spain S.L.U v. Nihat Kotan, Nirvana Aksis Sanal Magazacilik
Bilgisayar Elektrik Elektron
Case No. D2022-3671

1. The Parties

The Complainant is Goldcar Spain S.L.U, Spain, represented by Taylor Wessing LLP, United Kingdom.

The Respondent is Nihat Kotan, Nirvana Aksis Sanal Magazacilik Bilgisayar Elektrik Elektron, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <goldcartr.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 3, 2022. On October 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 3, 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 (Privacy service provided by Withheld for Privacy ehf, Iceland) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 4, 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 October 5, 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 October 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 28, 2022.

The Center appointed Taras Kyslyy as the sole panelist in this matter on November 2, 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 has been operating for at least 35 years and became a subsidiary of Europcar Mobility Group, which is part of the Europcar group of companies which specializes in car rental services. The Europcar Group operates across a network of 170 countries worldwide with approximately 200 airport locations in Europe and 600 around the world. The Complainant has over 100 offices located in Spain, Portugal, Italy, Andorra, Malta, France, Greece, Croatia, Netherlands, Cyprus, Malta, Serbia, Iceland, Ecuador and the USA.

The Complainant owns a number of registrations of its GOLDCAR trademark in various jurisdictions, including for instance International Registration No. 1207823, registered on April 7, 2014.

The Complainant is the owner of the domain name <goldcar.es>, registered on March 18, 2004. The Complainant's website also has a number of extensions for different territories and languages including French, Italian, German, Portuguese, Turkish and Polish.

The disputed domain name was registered on July 31, 2022 and does not resolve to any active website.

5. Parties' Contentions

A. Complainant

The disputed domain name is identical or confusingly similar to the Complainant's trademark. The disputed domain name reproduces identically the Complainant's trademark in its entirety. The only difference between the disputed domain name and the Complainant's trademark is the addition of the letters "tr" at the end. The distinctive element of the disputed domain name "goldcar" is identical to the Complainant's trademark and therefore there would be a high likelihood of confusion between the disputed domain name and the Complainant's trademark.

The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services as it redirects to an error page. The Respondent is not known by the name "Goldcar" on the internet and does not own any trade mark comprising the word "Goldcar". The disputed domain name was registered on July 31, 2022, many years after the establishment of the Complainant's well-known trademark. The Complainant has no connection with the Respondent or the disputed domain name. The Complainant has not licensed or otherwise permitted the Respondent to use the Complainant's trademark. The Respondent is not making any legitimate non-commercial or fair use of the disputed domain name, so cannot therefore have any rights or legitimate interests in it.

The disputed domain name was registered and is being used in bad faith. 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 disputed domain name does not resolve to an active website, which can indicate bad faith. There is no plausible use of the disputed domain name that would not interfere with the Complainant's trademark.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the “[WIPO Overview 3.0](#)”) the applicable generic Top-Level Domain (“gTLD”) in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Thus, the Panel disregards gTLD “.com” for the purposes of the confusing similarity test.

According to 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 identical or confusingly similar to that mark for purposes of UDRP standing. The Panel finds that in the present case the disputed domain name incorporates the entirety of the Complainant’s trademark.

According to section 1.8 of the [WIPO Overview 3.0](#) where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The Panel finds that the addition of “tr” in the disputed domain name after the element identical to the Complainant’s trademark does not prevent finding confusing similarity between the disputed domain name and the Complainant’s trademark.

Considering the above the Panel finds the disputed domain name is confusingly similar to the Complainant’s trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, the Respondent provided no evidence that it holds rights or legitimate interests in the disputed domain name.

The available evidence confirm that the Respondent is not commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The Respondent has no rights or legitimate interests in the disputed domain name resolving to an inactive website (see, e.g., *Philip Morris USA Inc. v. Daniele Tornatore*, WIPO Case No. [D2016-1302](#)).

Considering the above, the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain name. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to section 3.1.4 of the [WIPO Overview 3.0](#) the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The Panel is convinced that the Complainant’s trademark is well established through long and widespread use and the Complainant has acquired a significant reputation and level of goodwill in its trademark internationally. Thus, the Panel finds that the disputed domain name confusingly

similar to the Complainant's trademark was registered in bad faith.

According to section 3.3 of the [WIPO Overview 3.0](#) from the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. In this regard, the Panel takes into account (i) the high degree of distinctiveness and reputation of the Complainant's trademark, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the Respondent's concealing its identity while registering the disputed domain name, and (iv) the implausibility of any good faith use to which the disputed domain name may be put.

Considering the above, the Panel finds the disputed domain name was registered and is being used in bad faith. Therefore, the Complainant has established its case under 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 <goldcartr.com> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: November 16, 2022