

ADMINISTRATIVE PANEL DECISION

Accor v. Roger Hullon
Case No. D2022-4561

1. The Parties

The Complainant is Accor, France, represented by Dreyfus & associés, France.

The Respondent is Roger Hullon, France.

2. The Domain Name and Registrar

The disputed domain name <accor-poland.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 November 30, 2022. On November 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 30, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 6, 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 December 9, 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 December 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 30, 2023.

The Center appointed William Lobelson as the sole panelist in this matter on February 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 is a French based group dedicated to operating hotels, resorts, and vacation properties on a worldwide scale.

The Complainant owns a number of trademarks formed with ACCOR:

- French Trademark ACCOR & device No. 4464429, registered on June 26, 2018, and covering services in Classes 35, 36, 38, 39, 41, 42, 43, and 44.
- International Trademark ACCOR No. 480492, registered on November 10, 1983, duly renewed since then, designating, *inter alia*, Austria, Germany, Spain, Italy, Iceland, Monaco, Egypt, and covering goods and services in Classes 16, 39, and 42.
- International Trademark ACCOR & device No. 1471895, registered on December 24, 2018, designating, *inter alia*, Australia, European Union, Russian Federation, United Kingdom, and United States of America, and covering services in Classes 35, 36, 38, 39, 41, 42, 43, and 44;

In addition, the Complainant owns and uses the domain name <accor.com>, registered on February 23, 1998.

The disputed domain name <accor-poland.com> was registered on July 12, 2022.

It resolved to a parking page of pay-per-click ("PPC") links relating to hotel web sites.

Two e-mail servers were set up on the disputed domain name that was used as a fraudulent email address for phishing purposes.

The Complainant served a cease and desist letter on September 23, 2022, to the Respondent (using the Registrant email address available in the WhoIs), that remained unanswered.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to its earlier trademarks; that the Respondent does not have any rights or legitimate interests therein; that the Respondent registered and uses the disputed domain name in bad faith, being emphasized that the disputed domain name routes to a PPC page, and that the Respondent uses the domain name as an email address to impersonate a fictive Complainant's employee for phishing purposes.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Notwithstanding the lack of formal response, it remains incumbent on the Complainant to make out its case in all respects under the rules set out in paragraph 4(a) of the Policy. Namely, 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 (paragraph 4(a)(i));
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name (paragraph 4(a)(ii)); and
- (iii) the disputed domain name has been registered and is being used in bad faith (paragraph 4(a)(iii)).

A. Identical or Confusingly Similar

The Complainant is the owner of trademark registrations for ACCOR.

The disputed domain name reproduces the Complainant's trademark ACCOR.

Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise), in this case the geographical name "Poland", would not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Furthermore, the addition of the generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

Consequently, the disputed domain name is confusingly similar to the Complainant's trademark and the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

To demonstrate rights or legitimate interests in a domain name, non-exclusive the Respondent defenses under UDRP, paragraph 4(c) include the following:

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

The Panel notes that the Respondent has not filed a response and thus did not deny the Complainant's assertions, nor brought any information or evidence for demonstrating any rights or legitimate interests.

The Complainant has made a *prima facie* case showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not

affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name.

The Complainant further contends that the Respondent has not acquired any trademark in the name “accor-poland”, and does not make any *bona fide* use - neither commercial nor noncommercial, of the disputed domain name, other than initially routing the same to a parking page of PPC sponsored links. In addition, the disputed domain name is used to send fraudulent emails. Panels have categorically held that use of a domain name for illegal activity can never confer rights or legitimate interests.

Furthermore, where a domain name consists of a trademark plus a geographical term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant has substantiated the fact that its trademark ACCOR, which has been registered and used in France and internationally for years, now benefits from a high level of public awareness, as acknowledged in a number of earlier UDRP decisions:

Accor v. Xu Guo Xing, WIPO Case No. [D2017-0192](#); *Accor v. Domains By Proxy, LLC / Abdulrahman Almarri*, WIPO Case No. [D2015-0777](#); *Accor v. Domain Whois Protection Service Whois Agent/Iijiewei*, WIPO Case No. D2014- 1482; *Accor and Soluxury HMC v. “m on”*, WIPO Case No. [D2012-2262](#).

It therefore appears very unlikely that the Respondent, who declares himself a French resident, could be unaware of the Complainant’s rights in the trademark ACCOR when it registered the disputed domain name. Furthermore, the Respondent’s use of the disputed domain name to impersonate the Complainant is a clear indication that the Respondent knew about the Complainant’s and sought to take a financial advantage through such fraudulent activities.

It is also noted that the Respondent directed the domain name to a parking page featuring PPC pages relating to hotel services, which is the Complainant’s core business, further demonstrating the Respondent’s illicit intention to commercially benefit from the Complainant’s reputation and goodwill in its trademark.

For this Panel, the above is a clear indication that the Respondent necessarily had the Complainant’s trademark in mind when it registered the disputed domain name.

The information provided to the Panel in support of the Complainant’s contentions also shows that the Respondent was making use of the disputed domain name as a fraudulent email address, and tried to place orders with some of the Complainant’s suppliers and clients, pretending to be the Purchasing Manager of the Complainant located in Poland, with a view to extorting sensitive data and funds from the Complainant’s business partners and customers.

This is a fraudulent impersonation of the Complainant clearly demonstrates a use in bad faith of the disputed domain name.

Accordingly, 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 disputed domain name <accor-poland.com> be transferred to the Complainant.

/William Lobelson/

William Lobelson

Sole Panelist

Date: February 9, 2023