

ADMINISTRATIVE PANEL DECISION

CITYA Immobilier v. Milen Radumilo

Case No. D2023-0634

1. The Parties

The Complainant is CITYA Immobilier, France, represented by Cabinet Bouchara, France.

The Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <citya.club> is registered with Communigal Communication Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 13, 2023. On February 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 20, 2023, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 20, 2023, 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 20, 2023.




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 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 14, 2023.

The Center appointed Douglas Clark as the sole panelist in this matter on March 17, 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

Founded by Mr. Philippe Briand in 1990, the Complainant is a real estate agency network that provides real estate services in France. The Complainant's founding president, Philippe Briand, is the owner of several trade mark registrations for CITYA in France in which the Complainant has rights, including the following:

Trade Mark	Registration Number	Filing/Registration Date	Classes
	3186328	October 1, 2002	35, 36, 38, 41
	4282842	June 24, 2016	35, 36
	4649917	May 22, 2020	16, 35, 36, 37, 38, 41, 42, 43, 45
CITYA	4649914	May 22, 2020	16, 35, 36, 37, 38, 41, 42, 43, 45

The Respondent is an individual based in Romania. The Respondent has been the unsuccessful respondent in over 150 prior UDRP disputes.

The disputed domain name <citya.club> was registered on December 9, 2022. At the date of this Complaint, the disputed domain name resolved to a webpage containing pay-per-click links to third party websites.

5. Parties' Contentions

A. Complainant

The Complainant contends that:

- (a) The disputed domain name is confusingly similar to its trade mark. The disputed domain name wholly incorporates the Complainant's well-known CITYA trade mark. The generic Top-Level Domain ("gTLD") ".club" in the disputed domain name does not eliminate the overall notion that the designations are connected to the trade mark and the likelihood of confusion that the disputed domain name and the trade mark are associated;
- (b) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way and the Complainant has never granted any authorisation or license to use the Complainant's trade mark. The Respondent is not commonly known by the disputed domain name, and has not made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name; and
- (c) The disputed domain name was registered and is being used in bad faith. The mere fact that the Respondent has registered a domain name incorporating a mark with a distinctive name gives rise to an inference of bad faith. Based on the use of the disputed domain name, the Respondent registered and is using the disputed domain name to attract Internet users for commercial gain, creating a likelihood of confusion with the Complainant's trade mark.

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

The Complainant must satisfy all three elements of paragraph 4(a) of the Policy in order to succeed in its action:

- (i) the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights to;
- (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 Panel finds that the disputed domain name <citya.club> is identical or confusingly similar to the Complainant's trade mark. The disputed domain name incorporates the CITYA trade mark in full followed by the gTLD ".club". The gTLD is generally disregarded when considering the first element as it is viewed as a standard registration requirement. (See section 1.11, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)))

The Panel notes that the Complainant did not rely on any registered trade marks in Romania where the Respondent is located. The ownership of a trade mark is generally considered to be a threshold standing issue. The location of the trade mark, its date of registration (or first use) and the goods and/or services for which it is registered, are all irrelevant for the purpose of finding rights in a trade mark under the first element of the UDRP. These factors may however bear on a panel's further substantive determination under the second and third elements. (See section 1.1.2 of the [WIPO Overview 3.0](#)).

The Complainant has therefore satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Respondent has not asserted any rights or legitimate interests in relation to the disputed domain name.

Section 2.1 of the [WIPO Overview 3.0](#) provides:

"While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

As described in section 5 above, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests, which has not been rebutted by the Respondent. The Panel also notes that the disputed domain name resolves to a parked webpage showing pay-per-click links to third party websites, some of which are related to the Complainant's competitors.

Moreover, the nature of the disputed domain name, being identical to the Complainant's trade mark, carries a high risk of implied affiliation. (See section 2.5.1 of the [WIPO Overview 3.0](#).)

Accordingly, the Respondent has no rights or legitimate interests in regard to the disputed domain name.

The second element of paragraph 4(a) of the Policy is therefore satisfied.

C. Registered and Used in Bad Faith

Based on the given evidence, the disputed domain name was registered and is being used in bad faith.

The disputed domain name was registered long after the registration of the CITYA trade mark in which the Complainant has rights and the use of the Complainant's CITYA trade mark cannot be a coincidence. The CITYA trade mark is used by the Complainant to conduct its business and the Complainant has used the trade mark for at least over 20 years. The Panel is satisfied that the Respondent was aware of the Complainant and its CITYA trade mark when he registered the disputed domain name.

The Respondent has registered the disputed domain name to attract Internet users to the website for commercial gain in accordance with paragraph 4(b)(iv) of the Policy. The disputed domain name directs Internet users to a parked webpage showing pay-per-click links to third party websites. In addition, the pay-per-click links include real estate sales and links to the Complainant's competitors. As mentioned above, the Respondent has also been the unsuccessful respondent in over 150 prior UDRP disputes and is clearly a serial cyber squatter.

For the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The Complainant has therefore satisfied the third element under paragraph 4(a) 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, <citya.club>, be transferred to the Complainant.

/Douglas Clark/

Douglas Clark

Sole Panelist

Date: March 31, 2023