

ADMINISTRATIVE PANEL DECISION

Ares Management LLC v. Pavel Rubtsov, Alexey Sokolov
Case No. D2023-0997

1. The Parties

The Complainant is Ares Management LLC, United States of America, represented by Greenberg Traurig, LLP, United States of America.

The Respondent is Pavel Rubtsov (“Respondent Rubtsov”), United Kingdom / Alexey Sokolov (“Respondent Sokolov”), Ukraine.

2. The Domain Names and Registrar

The disputed domain names <aresmnt.com>, <aresmnt.net> and <aresmnt.org> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 6, 2023. On March 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 7, 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 (Redacted for Privacy, Privacy Service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 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 March 24, 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 March 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2023.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on April 27, 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 subsidiary of Ares Management, L.P. (collectively 'Ares') which is a global alternative asset manager with approximately USD352 billion of assets under management and over 2,500 employees. ARES and the ARES design mark (the "ARES GLOBE DESIGN") are registered in relation to 57 countries, including UK Reg. No. UK00909240491 for the mark ARES and UK Reg. No. UK00909244443 for the ARES design mark. The Respondent Rubtsov is purportedly located in the UK. The Complainant also owns trademark Reg. No. 196654 for ARES CAPITAL and Reg. No. 196653 for ARES MANAGEMENT in Ukraine where the Respondent Sokolov is purportedly located. The Complainant also has a number of trademark registrations in the United States.

Since March 19, 2002, the Complainant has owned the domain name <aresmgmt.com> and since 2007, it has promoted and offered services through the website hosted at that domain name ("www.aresmgmt.com").

The disputed domain name <aresmnt.com> was registered on October 13, 2022, and <aresmnt.net> and <aresmnt.org> were registered on November 16, 2022. The disputed domain names resolve directly or indirectly to interconnected imposter websites. Following the submission of an abuse complaint, these websites remain suspended.

The registrants for the disputed domain names, initially disguised by privacy shields, were revealed by the Registrar to be as follows: for <aresmnt.com> – Respondent Rubtsov, with an address in the UK; for <aresmnt.net> – Respondent Sokolov, with an address in Ukraine; and for <aresmnt.org> – Respondent Sokolov, with the same address in Ukraine.

5. Procedural Consideration – Respondent Sokolov's location

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

The location of the Respondent Sokolov disclosed by the Registrar appears to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is therefore appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

The Respondent's mailing address is reported to be in Ukraine, which is subject to a conflict that may affect delivery of the written notice by postal-mail, in terms of the paragraph 2(a)(i) of the UDRP. The Panel notes that the record shows that the written notice could not be delivered to the address disclosed by the Registrar in its verification.

However, it appears that the Notification of Complainant's emails were delivered to the Respondent's email address, as provided by the Registrar. Therefore, there is no evidence that the case notification was not successfully delivered to the disclosed Respondent's email address.

The Panel concludes that the Respondent Sokolov allegedly located in Ukraine has been given a fair opportunity to present its case, and so that the administrative proceeding takes place with due expedition, the Panel will proceed to a Decision accordingly.

Additionally, as discussed below where consolidation is considered, although the purported Respondent Sokolov is seemingly based at an address in the Ukraine, Respondent Pavel Rubtsov's address as provided to the Registrar is in the United Kingdom, where the same conditions as might interrupt service in the Ukraine do not apply. Therefore, as it is determined below that a single entity is behind the three disputed domain names, it can be presumed that service to that entity has been appropriately effected.

6. Parties' Contentions

A. Complainant

The Complainant seeks consolidation of the Complaint in relation to three domain names and points out that Paragraph 10(e) of the Rules empowers a panel to so proceed in accordance with the Policy and Rules. The Complainant contends that while Paragraph 3(c) of the Rules provides that "[t]he complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder", panels have frequently concluded that consolidation of multiple registrants as respondents in a single administrative proceeding may be appropriate in certain circumstances under the Rules. The Complainant points out that panels routinely grant requests for such consolidation where the complainant can demonstrate that the disputed domain names or the websites to which they resolve are subject to common control, and the panel determines that consolidation would be procedurally efficient and fair and equitable to all parties. "Common control" can be determined based on various factors, including the use of the same registrar, the fact that the registrants are located in the same country, the similarity of the domain names involved, and the fact that all the domain names are being used for the same purpose.

The Complainant says that in this case, the evidence and available Whois information support a finding that the same registrant owns all three of the disputed domain names, or at least that they are under "common control" because: (1) the registrant of each is using the same privacy service located in Capital Region, Iceland; (2) the registrar NameCheap, Inc. is the same for all the disputed domain names; (3) the hosting company and IP address for the MX records is the same for all the domain names; (4) the disputed domain names are identical other than the generic top-level domains ("gTLDs") ".com", ".net", and ".org"; and (5) they were registered around the same time with <aresmnt.com> being registered on October 13, 2022 and <aresmnt.net> and <aresmnt.org> registered shortly thereafter on November 16, 2022. The Complainant also points out that <aresmnt.net> resolves to an imposter site in Russian, which, when translated to English or when Internet users click on most of the links, redirects to <aresmnt.com>, and <aresmnt.org> hosts a similar imposter site in Russian, which links to <aresmnt.com>. Therefore, the Complainant says its Complaint about the three disputed domain names arises from a common nucleus of fact and consolidation will promote "the shared interests of the parties in avoiding unnecessary duplication of time, effort and expense, and furthers the fundamental objectives of the Policy". (see *Speedo Holdings BV v. Programmer*, WIPO Case No. [D2010-0281](#)).

In addition, the Complainant, having been apprised by the Center of the underlying identities of the respondents, notes that if the Panel has any concerns regarding a Respondent in Ukraine getting notice of this proceeding, it is clear that all three of the disputed domains are under common control and the address listed for the registrant of <aresmnt.com> is in the United Kingdom. Accordingly, the Complainant maintains that the Panel can have confidence that the Respondent 2 will receive adequate notice of the proceeding, at least to the extent that any of the contact information listed by the Respondent is accurate.

The Complainant asserts that it owns valid federal trademark registrations for the ARES trademarks in the United States and other countries including in the United Kingdom where the Respondent Rubtsov is purportedly located and in Ukraine where the Respondent Sokolov is purportedly located, thus demonstrating its rights under Policy, paragraph 4(a)(i). In any case, the Complainant says that it is not necessary that a Complainant have a trademark registration where the Respondents are purportedly located to demonstrate its rights (citing *Koninklijke KPN N.V. v. Telepathy Inc.*, WIPO Case No. [D2001-0217](#)). Notwithstanding that fact, the Complainant says that its ownership of trademark registrations in the United Kingdom and Ukraine is sufficient to demonstrate its rights under the Policy.

The Complainant points out that the disputed domain names all incorporate the Complainant's ARES mark in full, changing the mark only by adding the letters "mnt" at the end, and then the generic top-level domains ("gTLD") ".com", ".net", and ".org". The Complainant says that it is obvious that the Respondents used "mnt" as an intentional misspelling of "mgmt.", the abbreviation for the term "management", which is part of the Complainant's corporate name - Ares Management LLC. The disputed domain names are also said to be highly similar to the domain name that the Complainant's website is posted on and that is used by it for all of its official email addresses: <aresmgmt.com>. The Complainant points out that numerous panels have found that addition of generic terms or letters fails to make a domain name distinct from a Complainant's mark. Hence it says that the addition of the letters "mnt" to the Complainant's famous ARES mark does not distinguish the disputed domain names but instead actually increases the likelihood of confusion based on the direct association of "mnt" with "management" and the Complainant's financial services.

The Complainant asserts that the Respondents registered the disputed domain names without its authorization or consent, whereas the disputed domain names misappropriate and are confusingly similar to the Complainant's ARES marks. It says the Respondents are not commonly known by the disputed domain names, have not used or prepared to use them in connection with a *bona fide* offering of goods or services, and have not been authorized, licensed, or otherwise permitted by the Complainant to register and/or use them. The use of a privacy service constrains the Panel to conclude that the Respondent is not commonly known by the disputed domain names and thus lacks rights or legitimate interests, or so the Complainant maintains.

The Complainant also says that the Respondents have never operated any *bona fide* or legitimate business under the disputed domain names, and are not making a protected non-commercial or fair use of them. Rather, the Respondents were using the disputed domain names to divert Internet traffic to imposter websites that prominently display the Complainant's trademarks including the Ares Globe Design, and text in Russian, and purport to be the Complainant's investment platform. The Complainant points out that when Internet users switch the language to English on the website posted on <aresmnt.net>, or click most of the links on either <aresmnt.net> or <aresmnt.org>, they are redirected to <aresmnt.com>, which prominently displays the Complainant's trademarks including the ARES GLOBE Design, and purports to be the Complainant's investment platform. The websites also encourage visitors to create accounts and deposit funds. At worst, the Complainant says, the Respondents' websites are used to steal personal information from consumers, and at best, simply defraud consumers by purporting to contain information about the Complainant. Either way, the Respondents' use of the disputed domain names can hardly be called fair or legitimate, and furtherance of fraud cannot result in finding legitimate interests or rights, the Complainant asserts.

The Complainant also points out that it has not authorized, licensed, or consented to the Respondents' registrations and use of domain names incorporating its trademarks, or any confusingly similar variation thereof. Furthermore, to the Complainant's knowledge, there are no prior trademark applications or registrations in the name of the Respondents for any mark incorporating the Complainant's trademarks anywhere in the world. Therefore, the Complainant says that the Panel should find that the Respondents are not commonly known by the disputed domain names pursuant to Policy, paragraph 4(c)(ii), and thus have no legitimate reason to use them.

The Complainant says that the facts referred to above indicate that the disputed domain names were registered and are being used in bad faith, to host websites that pass themselves off as the Complainant's website so as to defraud consumers and steal their personal or company information. Further the Complainant points out that use of a domain name by a Respondent to pretend that they are the Complainant or associated with the Complainant brings the case within the provisions of paragraph 4(b)(iii) of the Policy, because it shows that the Respondent registered it for the purpose of disrupting the business of a competitor, namely the Complainant.

In addition to the Respondents' obvious actual and inferred knowledge of the ARES Marks, they had constructive knowledge of them because a search of the trademarks registry would reveal the registration rights of the Complainant, the latter says. The Respondents were in any case clearly aware of the

Complainant's rights in what it maintains are famous trademarks, because the Respondents incorporated them into the disputed domain names when they registered them. The Complainant also says that it is not aware of any use of the Complainant's marks in connection with financial investment services, other than in connection with the Complainant. The Complainant asserts that its relevant trademarks are so obviously connected with the Complainant and its services that their very use by someone with no connection to the Complainant suggests opportunistic bad faith.

The Complainant also points out that the Respondents used a proxy service to register the disputed domain names. Use of a privacy or proxy registration service to shield identity and elude enforcement efforts by the legitimate trademark owner demonstrate the Respondents' bad faith use and registration, the Complainant says. Finally, the disputed domain names have active MX (mail exchange) records, which indicates email use, likely for phishing or fraudulent email communications, further showing bad faith.

B. Respondent

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

7. Discussion and Findings

A. Consolidation

The disputed domain names <aresmnt.net> and <aresmnt.org> were both registered by Respondent Sokolov with the same address in the Ukraine.

The disputed domain name <aresmnt.com> was registered by one Respondent Rubtsov with an address in the United Kingdom. The latter registered <aresmnt.com> on October 13, 2022 whereas <aresmnt.net> and <aresmnt.org> were registered on November 16, 2022, in other words within a relatively short time span.

All three disputed domain names were registered by persons with male Russian sounding names, and resolved before suspension either directly or via links to a Russian imposter website mimicking the Complainant's official web presence and investment platform.

For all a privacy service located in Iceland was used.

The construction of each of the disputed domain names is identical, but for the gTLD extensions. The choice of the inclusion of "mnt" in each case as opposed to the Complainant's "mgmt", to suggest the term "management", is clearly deliberate and strikingly consistent. That Internet users who switch language to English on the website posted on <aresmnt.net>, or click links on either <aresmnt.net> or <aresmnt.org>, are redirected to <aresmnt.com> is clearly not something that can come about by chance. It links the two domain names held by the named Respondent Sokolov, with the ".com" domain name held by Respondent Rubtsov in the UK, strongly suggesting that responsibility for all three domain names lies in the same hands. In other words, the clear inference to be drawn is that the three domain names the subject of this proceeding are held in common control by a single entity. Consolidation is therefore appropriate, procedurally efficient and fair and equitable to all parties.

In terms of the effectiveness of the notice of the proceeding provided, although the purported the Respondent Sokolov is seemingly based at an address in the Ukraine, Respondent Rubtsov's address as provided to the Registrar is in the United Kingdom, where the conditions that might prevent proper service in the Ukraine do not apply. As noted above, it can therefore be presumed that service to the single entity behind the three disputed domain names has been appropriately effected.

B. Identical or Confusingly Similar

The three disputed domain names are not identical to the registered trademark ARES of the Complainant. However, that trademark is clearly visible and immediately recognizable in all three disputed domain names. Thereby alone the requirements of the Policy for the first element are met. The addition of the letters “mnt” has no impact, nor do the various gTLD extensions (“.com”, “.org”. and “.net”).

Therefore, the Panel holds that all three disputed domain names are confusingly similar to the ARES registered trademark of the Complainant.

C. Rights or Legitimate Interests

The Respondent, which the Panel has concluded is a single entity, has not availed itself of the opportunity to reply to the various contentions of the Complainant. The Complainant has not authorized the registration of any of the domain names, nor the use of its ARES trademark in any way or form. There is no indication that the Respondent is known by any of the disputed domain names or by the term ARES, or acquired any legitimate prior rights in that term. The disputed domain names in various ways all lead to imposter websites that mimic the Complainant’s web presence and use its various proprietary signs and attributes without any authority. The said websites are structured so as to mislead consumers and potentially defraud them of money or information while they labor under the false impression that they are dealing with the Complainant. These are not activities of a kind that could ever result in the recognition of rights or legitimate interests vesting in a Respondent.

Therefore the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain names.

D. Registered and Used in Bad Faith

The composition of the disputed domain names, their consistency and the deliberation involved in their registration with different gTLD extensions are indicative of bad faith. It is unimaginable that the entity registering them was not aware of the Complainant and its trademark rights. The latter is prominent by reference to its trademarks in the consumer investment business, and its marks are distinctive. Further, the fact that the disputed domain names, in an interconnected and coordinated manner, resolve to an imposter website or websites displaying proprietary insignia of the Complainant, is indicative of bad faith. In all likelihood the whole operation was established by the Respondent for the purpose of defrauding Internet users tricked by the similarity of the disputed domain names and the interconnected websites to which they resolved. In the light of the Panel’s earlier conclusion that all three domain names are held under single control, it is even more apparent that a fraudulent scheme lies behind the coordinated acquisition of all three names by that single entity. The use of a privacy shield, and the MX record, are further indicative of a dishonest scheme designed to take advantage of the widespread reputation the Complainant enjoys in its ARES trademarks for financial services, to the detriment of Internet users.

Therefore, the Panel holds that the disputed domain names were 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 <aresmnt.com>, <aresmnt.net> and <aresmnt.org> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: May 11, 2023.