

ADMINISTRATIVE PANEL DECISION

Airbus SAS v. Klaus Braun

Case No. D2023-1294

1. The Parties

The Complainant is Airbus SAS, France, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Klaus Braun, Germany.

2. The Domain Name and Registrar

The disputed domain name <transport-air-bus.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 March 24, 2023. On March 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 27, 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 and contact information in the Complaint (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf). The Center sent an email communication to the Complainant on April 3, 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 April 4, 2023.

The Center verified that the Complaint together with 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 April 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 12, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on May 31, 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.

After the Panel appointment, two email communications using the disputed domain name were sent to the Center on June 12, and 18, 2023.

4. Factual Background

The Complainant is a global pioneer in the aerospace industry, operating in the commercial aircraft, helicopters, defence and space sectors. It is the largest aeronautics and space company in Europe and operates through 180 locations worldwide with more than 130,000 employees.

The Complainant is the owner of the following trademark registrations for the sign "AIRBUS" (the "AIRBUS trademark"):

- the German trademark AIRBUS with registration No. 302010054700, registered on June 24, 2011 for goods and services in International Classes 3, 6, 7, 8, 9, 12, 13, 14, 16, 17, 18, 21, 24, 25, 28, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 45; and
- the International trademark AIRBUS with registration No. 1112012, registered on June 24, 2011 for goods and services in International Classes 3, 6, 7, 8, 9, 12, 13, 14, 16, 17, 18, 21, 24, 25, 28, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 45.

The Complainant is also the owner of the domain name <airbus.com> registered on May 23, 1995, which resolves to its official website.

The disputed domain name was registered on February 10, 2023. It resolves to a website that offers AIRBUS-branded transportation services.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant states that the disputed domain name is confusingly similar to its AIRBUS trademark, because it is a combination of this trademark and the dictionary word "transport", which is related to its business. The Complainant maintains that the inclusion of two hyphens in the disputed domain name does not distinguish it from the AIRBUS trademark, and adds that the disputed domain name is confusingly similar also to the name of its affiliate Airbus Transport International, SNC, which is the airline operating Beluga aircraft to transport large aircraft parts between various Airbus factories and assembly lines. According to the Complainant, the use of the disputed domain name by the Respondent contributes to the confusion because it resolves to a fraudulent website purporting to offer international transportation services under the brand AIRBUS.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not commonly known by it and is not affiliated with the Complainant, and the Complainant has not authorized the Respondent to use the AIRBUS trademark. The Complainant points out that the Respondent registered the disputed domain name many years after the Complainant started using the brand AIRBUS in 1970 and registered its domain name <airbus.com> in 1995.

The Complainant points out that the website at the disputed domain name claims to offer international transportation services. According to the Complainant, the Respondent is using the disputed domain name in connection with an unauthorized website where it purports to offer under the brand AIRBUS presumably fraudulent international transportation services which are tangentially related to the services provided by the

Complainant and its subsidiary Airbus Transport International. In the Complainant's view, the Respondent's purpose is to mislead for its own benefit unsuspecting visitors into divulging their personal information. In this regard, the Complainant points out that the website at the disputed domain name seeks to take advantage of the fame of the Complainant's trademark and the trust and goodwill that the Complainant has fostered among consumers to illegitimately increase traffic to the Respondent's website for personal gain, and to phish personal information from the Complainant's customers.

The Complainant notes that in 2021 the German Police informed it that the domain name <transport-airbus.com> was connected with fake vehicle sale postings where at least two victims made money transfers for the delivery of non-existent vehicles. That domain name was subsequently recovered by the Complainant through a UDRP proceeding. According to the Complainant, the disputed domain name is connected with the same scam because the composition of the two domain names is practically identical and the website associated to the disputed domain name is an exact replica of the website previously reachable through the domain name <transport-airbus.com>, so there is the risk that the disputed domain name is also being used to perpetuate fraud.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, by registering the disputed domain name which incorporates the Complainant's well-known AIRBUS trademark with the related term "transport", the Respondent has demonstrated its familiarity with the Complainant's brand and business. The Complainant contends that Respondent is likely connected with the website previously reachable through the domain name <transport-airbus.com> and is using the disputed domain name to host a fraudulent website that is identical to that previously reachable through <transport-airbus.com> to pass itself off as the Complainant or one of its affiliates. According to the Complainant, the Respondent's efforts to masquerade as the Complainant in an attempt to solicit sensitive, financial information from unsuspecting people constitute fraud, which must be considered bad faith registration and use of the disputed domain name. The Complainant points out that the website at the disputed domain name encourages unsuspecting users to provide their bank account, credit card or PayPal details as part of the Respondent's phishing scheme.

B. Respondent

The Respondent did not reply to the Complainant's contentions. However, on June 12, and June 18, the Center received email communications from an email address connected to the disputed domain name, mainly stating that:

"I really don't understand what is the problem with the name of the company? There is other company with this name transport-air-bus? Thank you"; and "I have not received any response from you. I saw that there are several websites with Airbus name:

<https://www.p-airbus.com>
<https://www.airportbus-muenchen.de>
<https://www.sbairbus.com>
<https://www.montereyairbus.com>
<https://www.niagaraairbus.com>
<https://www.cyber.airbus.com>
<https://www.airbushelicopters.com>

I want to know if all these websites are with the same owner : Airbus SAS airbus.com

Please tell me if i must change my company name or my website. I want to ask you if all these websites (www.p-airbus.com, www.airportbus-muenchen.de, www.sbairbus.com, www.montereyairbus.com, www.niagaraairbus.com, www.airbushelicopters.com) must change their websites name.

Thank you"

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the AIRBUS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the AIRBUS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (here, "transport") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the AIRBUS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made 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 or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the disputed domain name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

The Complainant has submitted evidence that the disputed domain name resolves to a website offering transportation services under the brand AIRBUS. The Respondent has not submitted a substantive Response and has not provided any rebuttal to the Complainant's submission or any explanation why and how its offering of transportation services through the disputed domain name should be regarded as a legitimate activity giving rise to rights or legitimate interests in the disputed domain name, given the popularity of the AIRBUS trademark and the fact that transportation services are included in its scope of protection, including in the European Union, where the Respondent is located. While the Respondent claims to operate a company with such a name, no evidence has been provided in that regard, and the Panel considers that merely having a company with such name would not be sufficient to give rise to rights or legitimate interests under the Policy.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The evidence in the case shows that the website at the disputed domain name also offers vehicle shipping services where potential users have to provide their bank accounts and credit card or PayPal details in order to carry out a vehicle sale transaction and delivery of the sold vehicle to its buyer with the assistance of the operator of the Respondent's website. The Complainant submits evidence showing that this website is a replica of the former website at the almost identical domain name <transport-airbus.com> that was recovered by the Complainant in a previous proceeding under the Policy¹, and where the respective website was used as part of a fraud scheme for fake sales of non-existent vehicles. There is no disclaimer for the lack of relationship between the Parties on the Respondent's website. The Panel notes that the Complainant's serious contention of the use of the disputed domain name as part of a fraud scheme has not been addressed by the Respondent, not rebutted. In the absence of any reasonable explanation or evidence leading to a different conclusion, the Panel accepts that it is more likely that the Respondent attempts to solicit sensitive financial information from visitors of its website by exploiting the popularity of the AIRBUS trademark for fraudulent purposes. Such conduct cannot give rise to rights or legitimate interests in the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel considers that the record of this case reflects that:

The Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The disputed domain name incorporates the AIRBUS trademark (which was registered many years earlier) in combination with the dictionary word "transport", which is related to the Complainant's activities and products. It offers services that are included in the scope of protection of the AIRBUS trademark. The

¹ *Airbus SAS v. Privacy service provided by Withheld for Privacy ehf / Wolfgang Kuster*, WIPO Case No. [D2021-3501](#).

website at the disputed domain name offers transportation services under the brand AIRBUS and does not disclose the lack of relationship with and endorsement by the Complainant. The website also requires potential users of its vehicle sale services to provide information about their bank accounts, credit cards or PayPal accounts, and as submitted by the Complainant, is a replica of the former website at another domain name containing the AIRBUS trademark and the word "transport" where its registrant was found to have participated in fraudulent activities. This combination of factors leads the Panel to the conclusion that the Respondent must have been aware of the Complainant and its AIRBUS trademark when registering the disputed domain name, and is likely to have targeted the Complainant through its registration and use for a website offering services included in the scope of protection of the AIRBUS trademark and related to the Complainant's activities. This supports a finding that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's AIRBUS trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of the services offered on the Respondent's website.

Based on the available record, the Panel therefore finds the third element of the Policy has been established.

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 <transport-air-bus.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: June 19, 2023