

ADMINISTRATIVE PANEL DECISION

Airbus SAS v. Rosenber fabian Quintero quintero, Amsitek Soluciones
Case No. D2023-1641

1. The Parties

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

The Respondent is Rosenber fabian Quintero quintero, Amsitek Soluciones, Colombia

2. The Domain Name and Registrar

The disputed domain name <airbussas.com> is registered with eNom, Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 14, 2023. On April 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 17, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 19, 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 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 April 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2023. The Respondent sent informal communications to the Center on April 20, April 27, May 8, and on June 20, 2023. The Respondent did not submit any formal response. Accordingly, the Center notified the Parties that it would proceed to panel appointment on June 20, 2023.

The Center appointed Manuel Moreno-Torres as the sole panelist in this matter on June 23, 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.

While the Respondent asked for a Spanish version of the records, the Panel notes that the language of the registration agreement is in English, the disputed domain name resolves to a website in English (although it seems to be a website under construction it includes titles in English such as “transportation services”, “explore our vehicles”, etc.), the parties have different nationalities and, there is no agreement between the parties for the language of the proceeding. The Panel looks at the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) section 4.5.1: Language of Proceeding: “Pursuant to paragraph 11 of the UDRP Rules, unless otherwise agreed by the parties, the default language of the proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise”. Accordingly, the Panel finds that the language of the proceeding must be English.

4. Factual Background

The Complainant is a global leader in the aeronautics and space sector with more than 130,000 employees.

The official site of the Complainant is delivered by <airbus.com>, registered since May 23, 1995.

The Complainant is the owner of a number of trademarks registrations worldwide. By way of example, International trademark registration number 1112012, registered on June 24, 2011, for AIRBUS or, Colombian trademark with registration number 435890, registered on October 28, 2011, for AIRBUS.

The Complainant sent three cease and desist letter to the Respondent by using a contact form of the registrar website and received no answer.

The disputed domain name <airbusass.com> was registered on November 24, 2022, and currently redirects to an under construction site in connection with transportation services.

5. Parties’ Contentions

A. Complainant

The Complainant alleges that the disputed domain name consists of AIRBUS trademark and an additional term closely related to the Complainant’s business, “sas”. However, this refers to the legal structure of the Complainant’s company meaning in French, “Société par Actions Simplifiée”.

The applicable Top Level Domain (“TLD”) in a domain name, “.com” in this case, is a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Regarding the second element, the Complainant submits that the Respondent is not sponsored by or affiliated with the Complainant in any way. Besides, the Complainant has not given the Respondent permission to use the Complainant’s trademarks in any manner, including in domain names.

Further, avers the Complainant, the Respondent is not commonly known by the disputed domain name which evinces a lack of rights or legitimate interests. Such finding includes the Whois record for the disputed domain name and therefore, the Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain name within the meaning of 4(c)(ii).

The Complainant also asserts that the Respondent was using a privacy service, which past panels have also found to equate to a lack of legitimate interest in circumstances as in the present case.

The Respondent is not using the disputed domain name for a *bona fide* offering, or for a legitimate noncommercial or fair use. Instead, says the Complainant, the Respondent is using the disputed domain name to redirect Internet users to a website that is under construction and features html template /

placeholder text, such as “Lorem ipsum dolor sit amet”. Such use evinces a lack of rights or legitimate interests in the disputed domain name.

The Complainant highlights AIRBUS trademark worldwide reputation and therefore, its use in the disputed domain name appears to be for the purposes of trading off the goodwill and reputation attached to the Complainant’s mark.

Finally, the Complainant notes that the Respondent was aware of the Complainant’s brands at the time the disputed domain name was registered since AIRBUS is well-known. See *Airbus SAS, Airbus Operations GmbH v. Alesini Pablo Hernan / PrivacyProtect.org*, WIPO Case No. [D2013-2059](#). Even a cursory search in different Internet search engines for “airbus sas” would return multiple links referencing to the Complainant and its business.

The Complainant also alleges that the Respondent’s use of the disputed domain name constitutes a disruption of the Complainant’s business and qualifies as bad faith registration and use under the Policy paragraph 4(b)(iii) because the Respondent’s domain name is confusingly similar to the Complainant’s trademarks and the website at the disputed domain name is connected with the promotion of services that compete with the Complainant’s own transportation services.

The Complainant contends that the way in which the privacy service was used in the present case is deemed to contribute to a finding of bad faith.

The Respondent, says the Complainant, has ignored all the three attempts to solve this dispute outside of this administrative proceeding. Such failure to respond to a cease-and-desist letter may properly be considered a factor in finding bad faith registration and use of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant’s contentions but sent up to five emails to the Center requiring the documents in Spanish and expressing interest to discuss this matter with the Complainant.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a substantive Response. This dispute resolution procedure is accepted by the domain name registrant as a condition of registration.

A. Identical or Confusingly Similar

The Complainant has established trademark rights over AIRBUS for UDRP purposes. Accordingly, the Panel through a side-by-side comparison between the trademark and the disputed domain name accepts the entire reproduction of the AIRBUS trademark in the disputed domain name.

Further, the Panel accepts that the additional word “sas” does not prevent a finding of confusingly similarity under the first element. See [WIPO Overview 3.0](#) section 1.8.

Likewise, the Panel refers to the [WIPO Overview 3.0](#), section 1.11: “The applicable Top Level Domain (‘TLD’) in a domain name [...] is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.”

Therefore, the first requirement is met under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

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

The evidence shows no legal base to support any of the above circumstances. Indeed, the records show no evidence that the Respondent is commonly known by the disputed domain name. And the disputed domain name redirects to website that is under construction which purport to manage a transportation business. The Panel notes that the website enters in conflict with the Complainant’s main activity, *e.g.* transportation, using a disputed domain name that corresponds to the Complainant’s corporate name in its entirety. Therefore, the Respondent seemingly tried to divert consumer to its website. Besides, there is no evidence in the records to support demonstrable preparation to use the disputed domain name in connection with a *bona fide* offering of services. The website template show little or no preparation for a business in transportation, and no evidence has been provided by the Respondent that could give rise to a legitimate interest in the disputed domain name in connection with such field. Furthermore, noting that the Complainant’s trademark is well-known, and that the Complainant’s corporate name is Airbus SAS, the Panel finds that the nature of the disputed domain name suggests an implied affiliation between the Respondent and the Complainants while it does not exist.

The Panel also finds that the Complainant has made a *prima facie* case and that the Respondent has not rebutted after being duly notified by the Center. In other words, the Respondent did not come forward with relevant evidence showing rights or legitimate interests in the disputed domain name. Therefore, the Panel looks at the [WIPO Overview 3.0](#), section 2.1.

Accordingly, the second requirement under paragraph 4(a)(ii) of the Policy is met to the satisfaction of the Panel.

C. Registered and Used in Bad Faith

The Panel notes that AIRBUS is well-known (see *Airbus SAS v. Privacy service provided by Withheld for Privacy ehf / Greatness Achunike*, WIPO Case No. [D2022-1808](#)), the Respondent is an unaffiliated to the Complainant and, the alleged business of transportation depicted in the Respondent’s site support a finding that it had registered the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s marks. In other words, to bait Internet user looking for the Complainant into the Respondent’s site. Therefore, the circumstances of the case matches with paragraph 4(b)(iv) of the Policy.

Moreover, the entire reproduction of the company name “Airbus SAS” in the disputed domain name and the well-known value of AIRBUS highlights Respondent’s previous knowledge of the trademark and the Complainant when registering the disputed domain name. Therefore, the Panel is the opinion that the Respondent targeted the Complainant, and its trademarks which is deemed to be in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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, <airbussas.com>, be transferred to the Complainant.

/Manuel Moreno-Torres/

Manuel Moreno-Torres

Sole Panelist

Date: July 7, 2023