

ADMINISTRATIVE PANEL DECISION

Groupe La Centrale v. Host Master, 1337 Services LLC
Case No. D2023-1841

1. The Parties

The Complainant is Groupe La Centrale, France, represented by Inlex IP Expertise, France.

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <caradisiac-reprise.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 25, 2023. On April 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (GDPR Masked) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 26, 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 27, 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 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 22, 2023.

The Center appointed Alistair Payne as the sole panelist in this matter on May 25, 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 a company based in France operates a website in the French language at <caradisiac.com> that provides information about and assessments of motor vehicles. The Complainant owns various trade mark registrations for its CARADISIAC mark including French word mark 4167779 registered on March 25, 2015. The Complainant also owns a French CARADISIAC logo mark 4682789 registered on September 16, 2020.

The disputed domain name was registered on January 3, 2023, and resolves to a website that features the Complainant's CARADISIAC logo mark and from which it appears to offer a used vehicle re-sale service.

5. Parties' Contentions

A. Complainant

The Complainant submits that it owns registered trade mark rights as noted above. It says that the disputed domain name wholly incorporates the Complainant's CARADISIAC mark and that the addition of the common French word "reprise" (referring in this context to the purchase of goods) does not prevent a finding of confusing similarity.

The Complainant submits that the CARADISIAC mark is a distinctive and invented term and that it has never authorised the Respondent to use its mark or to register a domain name containing its mark. It says that the Respondent does not appear to have any connection or rights to the CARADISIAC name or mark, especially considering that it does not correspond to the Respondent's entity name and there is no record of it owning any registered rights in the mark. It further says that the disputed domain name was registered long after the registration of the Complainant's trade mark for CARADISIAC and it notes that a Google search brings up the Complainant's site first when a search is undertaken using the mark as a search term. The Complainant therefore submits that the Respondent must have been aware of the Complainant's mark and business and chose to register the confusingly similar disputed domain name for its own illegitimate purposes.

The Complainant asserts that the Respondent is using the disputed domain name to resolve to a website that concerns the same field of activity as the Complainant, namely automobiles but notes that the Complainant does not buy or sell vehicles as the Respondent appears to do through the website at the disputed domain name. Essentially, the Complainant asserts that the Respondent is using its mark in the disputed domain name and on the website to which it resolves to confuse Internet users into thinking that there is some affiliation or connection with the Complainant's business that does not exist and to pass itself off as such and the Complainant says that this is not a legitimate use of the disputed domain name.

The Complainant has provided evidence that the director of publication mentioned on the website to which the disputed domain name resolves has already been involved in a past complaint procedure initiated by the Complainant concerning the fraudulent use of domain names for the sale of vehicles that were paid for but were never actually provided to the purchasers. This, says the Complainant, is a further indication that the Respondent has no rights or legitimate interests in the disputed domain name.

As far as bad faith is concerned the Complainant asserts that the disputed domain name has been registered and is being used in bad faith in that the website to which it redirects claims to sell vehicles under the Complainant's CARADISIAC trade mark and refers to the Complainant's domain name <caradisiac.com>, when there is no link between the Complainant and the Respondent. This says the Complainant is clear evidence of the Respondent seeking to use the disputed domain name and the Complainant's CARADISIAC mark to create a false link with the Complainant and to trade off the reputation attaching to its CARADISIAC mark and business. It says that the Respondent therefore knowingly registered the disputed domain name in order to confuse Internet users into thinking that there was some connection with the Complainant's business and to divert them to the website at the disputed domain name so as to make them think that the Complainant was offering vehicle acquisition services when it was really

the Respondent using the disputed domain name and the CARADISIAC mark for its own commercial and possibly fraudulent purposes.

The Complainant also notes that the Respondent appears to have been involved in a number of other UDRP proceedings in which the disputed domain names have been transferred under the Policy.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated that it owns registered trade mark rights for its CARADISIAC mark including French word mark 4167779 registered on March 25, 2015. The disputed domain name wholly incorporates this mark and is therefore confusingly similar to it. The addition of the common French word "reprise" and a hyphen does not prevent a finding of confusing similarity.

Accordingly, the Panel finds that the Complaint succeeds under this element of the Policy.

B. Rights or Legitimate Interests

The Complainant has submitted that the CARADISIAC mark is a distinctive and invented term and that it has never authorised the Respondent to use its mark or to register a domain name containing its mark. It has asserted that the Respondent does not appear to have any connection or rights to the CARADISIAC name or mark and that there is no record of it owning any registered rights in the mark. It appears that the disputed domain name was registered long after the registration of the Complainant's trade mark for CARADISIAC and the Complainant has noted that a Google search brings up the Complainant's site first when a search is undertaken using the mark as a search term. As a result, the Complainant has submitted that the Respondent must have been aware of the Complainant's mark and business and yet chose to register the confusingly similar disputed domain name for its own illegitimate purposes.

The Complainant has asserted that the Respondent is using the disputed domain name to resolve to a website that concerns the same field of activity as the Complainant, namely automobiles but has noted that the Complainant does not operate a business buying or selling vehicles, as the Respondent appears to do through the website at the disputed domain name. The Complainant has essentially asserted that the Respondent is using its mark in the disputed domain name and also on the website to which it resolves to confuse Internet users into thinking that there is some affiliation or connection with the Complainant's business that does not exist and to pass itself off as such and that this is not a legitimate use of the disputed domain name.

The Panel finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has failed to respond to or to rebut the Complainant's case or to explain its conduct and for these reasons and for those set out under Part C below the Panel finds that the Complaint also succeeds under this element of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered in 2023 many years after the Complainant registered its CARADISIAC French word mark number 4167779. The Complainant's mark is a distinctive invented word that has been used by the Complainant for its vehicle information website at the domain name <caradisiac.com> for many years. The fact that the disputed domain name resolves to a website relating to vehicle acquisition services and that prominently features an exact replica of the Complainant's registered

CARDISIAC logo mark suggests very strongly that the Respondent was well aware of the Complainant's mark and business when it registered the disputed domain name.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

The website at the disputed domain name appears to be designed to confuse Internet users into thinking that it is part of the Complainant's business or has some affiliation or connection which it does not have. The unauthorised use of the Complainant's very distinctive CARADISIAC mark in the disputed domain name and of the Complainant's CARADISIAC logo mark on the website to which the disputed domain name resolves is obviously intended to attract and confuse Internet users to the Respondent's website and to pass off the Complainant's CARADISIAC mark. The Respondent is using the website for what appears to be a used car sales business which is clearly a commercial purpose. As a result, the Panel finds that the requirements of paragraph 4(b)(iv) of the Policy are fulfilled and that there is evidence of registration and use of the disputed domain name in bad faith.

This is a case of the Respondent attempting to use the Complainant's distinctive mark in the disputed domain name and on the website to which it resolves, to pass itself off in bad faith as having some connection with the Complainant's business that it does not have. The Panel's view of the Respondent's bad faith is only reinforced by its failure to explain itself or to respond in these proceedings and also by the Complainant's evidence of a previous complaint concerning the fraudulent use of domain names for the sale of vehicles that were paid for but were never actually provided to the purchasers as described above in Part 5A.

Accordingly, the Panel finds that the disputed domain name has been registered and used in bad faith and that the Complaint also succeeds under this element 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, <caradisiac-reprise.com>, be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: June 8, 2023