

ADMINISTRATIVE PANEL DECISION

Ares Management LLC v. zbt
Case No. D2023-1994

1. The Parties

The Complainant is Ares Management LLC, United States of America (“United States” or “US”), represented by Greenberg Traurig, LLP, United States.

The Respondent is zbt, United States.

2. The Domain Name and Registrar

The disputed domain name <ares.cyou> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 4, 2023. On May 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 4, 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 (PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 17, 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 a first amended Complaint on June 5, 2023, and a second amended Complaint on June 13, 2023.

The Center verified that the Complaint together with the amended Complaints 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 June 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 17, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on July 18, 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 the “Complainant”) which is an asset manager with around USD 360 billion of assets under management and 35 offices in the United States, Europe, Asia, and Australia and over 2,600 employees. The Complainant’s assets are traded on the New York Stock Exchange under the ticker symbol “ARES”. The Complainant has used the mark and trade name ARES since 1997 and owns trademark registrations for the ARES family of marks including the following in the United States:

- ARES – US Trademark Registration Number 3,014,171, registered on November 8, 2005;
- ARES and Device – US Trademark Registration Number 3,925,367, registered on March 1, 2011;
- ARES CAPITAL – US Trademark Registration Number 3,925,364, registered on March 1, 2011; and
- ARES MANAGEMENT – US Trademark Registration Number 3,925,366, registered on March 1, 2011.

The Complainant has owned the domain name <aresgmt.com> since 2002. In addition, it owns other domain names incorporating the ARES mark such as <arescapitalasia.com>, <arescapitaleurope.com>, <aresgroup.com>, and <areschina.com.tw>.

The Respondent appears to be an individual or entity with an address in the United States.

The disputed domain name was registered on April 1, 2023, and as of the date of filing of the Complaint, resolved to a website purportedly of an investment director of the Complainant. Currently, the disputed domain name does not resolve to an active website.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name consists of “ares” and is therefore identical to the ARES trademark in which the Complainant has rights. The Complainant also contends that panels have found that when a disputed domain name entirely incorporates a complainant’s mark, that is sufficient to establish confusing similarity, and the mere addition of a generic Top-Level Domain fails to avoid confusing similarity.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that there is no evidence of the Respondent’s use of, or 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. Rather, the Complainant asserts that the Respondent is using the disputed domain name for a phishing website with a fake profile of a supposed employee of the Complainant in order to get customers to transfer funds and provide personal financial information, and that use of a domain name for fraud does not constitute legitimate use.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant contends that the Respondent is passing the disputed domain name as the website of a high-level employee of the Complainant and using it to defraud customers and steal their personal or company information which constitutes bad faith registration and use. The Complainant contends that given the fame of the ARES mark, the Respondent clearly had knowledge of the Complainant and its mark at the time of registration of the disputed domain name. The Complainant also contends that the Respondent used a proxy service to register the disputed domain name, which is further evidence of the Respondent’s bad faith.

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 with supporting evidence that it has rights to the trademark ARES. The disputed domain name solely consists of the term "ares", and is therefore, identical to the Complainant's trademark.

For the reasons mentioned above, the Panel finds that the first element has been established.

B. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Besides, a respondent's use of a domain name is not considered "fair" if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the disputed domain name corresponds exactly to the Complainant's trademark, and therefore carries a high risk of implied affiliation.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

C. Registered and Used in Bad Faith

The Panel finds that there is strong and clear evidence to find bad faith in this case.

The registration of the disputed domain name which is identical to the Complainant's well-known ARES mark by the Respondent, who is unaffiliated with the Complainant, creates a presumption of bad faith. Further, based on the reputation of the Complainant and the Complainant's marks, the Respondent probably knew of the Complainant and its marks at the time of the registration of the disputed domain name. Even if the Respondent did not, a simple Google search would have shown numerous results of the Complainant.

The disputed domain name does not currently display any content, but at one point forwarded to a website prominently displaying the Complainant's marks and introducing investment services from a man claiming to be an investment director of the Complainant. The Complainant has confirmed that it has never employed the individual whose photo and profile was featured on the website. Though the Complainant has not submitted any direct evidence of fraud, the Panel considers it probable that the Respondent used or intended to use the disputed domain name for purposes of phishing, identity theft, or some other activity in bad faith. Indeed, the Panel cannot conceive of any good faith use to which the disputed domain name may be put. Further bad faith is found in the failure of the Respondent to submit a response and the Respondent's concealing its identity using a privacy service. Moreover, the disclosed Respondent information appears fake, or incomplete, seeing as the Center was unable to send its written communication to the contact details provided by the Registrar for the Respondent.

For the reasons given above, the Panel finds that the third element 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, <ares.cyou>, be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: August 1, 2023