

ADMINISTRATIVE PANEL DECISION

Accor v. Perovi Ana
Case No. D2023-2133

1. The Parties

The Complainant is Accor, France, represented by Dreyfus & associés, France.

The Respondent is Perovi Ana, Italy.

2. The Domain Name and Registrar

The disputed domain name <accorgroups.com> is registered with WEDOS Internet, a.s. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 15, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 23, 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 (Not Disclosed) and contact information in the Complaint.

The Center sent an email communication to the Complainant on May 24, 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 May 26, 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 May 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 22, 2023.

The Center appointed Aaron Newell as the sole panelist in this matter on June 26, 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 was founded in 1967 and runs a chain of approximately 5,400 hotels by reference to the names “Accor” and/or “Group Accor”. The Complainant’s business spans roughly 100 countries. The Complainant has since 1998 promoted its business at <accor.com>, and since 2018 at <groupaccor.com> (which redirects to group.accor.com). A number of other UDRP Panels have determined that the Complainant’s ACCOR name and business are well-known and/or famous.

The Complainant’s ACCOR name is protected by the registration of, *inter alia*, International Registration no 727696 ACCOR (word mark), registered on December 28, 1999, which designates and is protected in approximately twenty-three countries (including a number in the EU), and International Registration no 1471895 ACCOR and device, registered on December 24, 2023, which designates and is protected in, *inter alia*, the European Union.

The disputed domain name was registered on March 24, 2023. It has been used to load a page containing a link to an index displaying one folder that is called “cgi-bin”, which in turn resolves to a 403 error page.

5. Parties’ Contentions

A. Complainant

The Complainant submits that

- (i) it owns valid trademark rights in the name ACCOR, to which the disputed domain name is confusingly similar;
- (ii) its ACCOR name is well-known in respect of hotel services;
- (iii) the Respondent has not been authorised to use the Complainant’s ACCOR name, has no affiliation with the Complainant, and is not making and has no plans to make a *bona fide* or legitimate use of the disputed domain name;
- (iv) the Respondent is passively holding the disputed domain name, which demonstrates its bad faith use and registration;
- (v) in the alternative, the Respondent has configured an email server at the disputed domain name, presenting a risk of phishing or similar deceptive conduct;
- (vi) there is no conceivable good faith justification for the Respondent’s registration and use of the domain name.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and

- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and used in bad faith.

The Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainant (see, e.g., *Airbus SAS, Airbus Operations GmbH v. Alesini Pablo Hernan / PrivacyProtect.org*, WIPO Case No. [D2013-2059](#)). However, the Panel may draw appropriate inferences from the Respondent's lack of a Response.

The Panel finds as follows:

A. Identical or Confusingly Similar

The disputed domain name contains the Complainant's well-known and registered ACCOR trademark in its entirety.

WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#) at section 1.7) sets out that "While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing".

The inclusion of the term "groups" does not detract from the similarity between the Complainant's registered ACCOR trademark, and the disputed domain name.

The disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first requirement.

B. Rights or Legitimate Interests

[WIPO Overview 3.0](#) at section 2.1 sets out that:

"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."

By way of its contentions outlined at 5 A (iii) above, the Complainant made a *prima facie* case, and therefore has shifted the burden to the Respondent to positively demonstrate rights or a legitimate interest.

The Respondent has failed to respond, has not rebutted the Complainant's contentions, has done nothing to contradict the Complainant's assertions, and has therefore failed to discharge this burden.

The Panel finds that the Complainant has satisfied the second requirement.

C. Registered and Used in Bad Faith

The Panel finds that the Complainant's ACCOR name represents a well-known, international chain of hotels.

The only evidence submitted by the Complainant outlining use of the disputed domain name is as follows:

- a) a screenshot showing that the disputed domain name loads or has loaded a website featuring an index page with a single link, and that this link ultimately resolves to an error page;
- b) a screenshot of an MX records search tool that suggests that the disputed domain name has been activated for sending and receiving email.

The Complainant asserts that, on balance of probabilities, these factors amount to bad faith use and registration of the disputed domain name. The Complainant submits that given the notoriety of its ACCOR trademark, the Respondent must have known about the Complainant's ACCOR trademark prior to its registration of the disputed domain name, that there is no conceivable good faith use to which the disputed domain name could be put and that the Respondent's activation of an email server gives rise to a risk of phishing or other deceptive conduct. The Complainant also notes that, by sending a cease and desist letter, it gave the Respondent an opportunity to explain its registration of the disputed domain name, and the Respondent failed to engage in any way with the Complainant and/or its Registrar.

The Panel considers that on their face the Complainant's contentions have merit. The Panel again notes that the Respondent did not engage in the proceedings, and therefore did not rebut the Complainant's contentions.

[WIPO Overview 3.0](#) sets out at section 4.3 that "Further to paragraph 14(b) of the UDRP Rules however, panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case e.g., where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent".

The Panel considers that in the present case the Complainant has advanced a reasonable and plausible *prima facie* case that calls for explanation by the Respondent. The Respondent failed to provide that explanation, despite twice being given the opportunity.

Finally, given the circumstances, the Panel finds that the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#) at section 3.3.

The Panel accordingly considers that the Complainant has satisfied the third requirement.

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, <accorgroups.com> be transferred to the Complainant.

/Aaron Newell/

Aaron Newell

Sole Panelist

Date: July 10, 2023