

ADMINISTRATIVE PANEL DECISION

Artemis Investment Management LLP v. Regery Ukraine Case No. D2023-2289

1. The Parties

The Complainant is Artemis Investment Management LLP, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Regery Ukraine, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <artemlsfunds.com> is registered with Gandi SAS (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 26, 2023. On May 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 30, 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 May 31, 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 June 2, 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 June 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 27, 2023.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on June 29, 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.

The identity of the Respondent was initially disguised by a 'Redacted for Privacy' Whols identification but the underlying registrant's identity was revealed as 'Regery Ukraine' upon enquiry by the Center.

4. Factual Background

The Complainant is a major investment funds management company located in the United Kingdom. The Complainant owns trademark registrations in the term ARTEMIS in relation to financial services, including European Union Trade Mark No. 001610963 registered on November 7, 2001 in classes 16, 36; United Kingdom trademark No. 00901610963 registered on November 7, 2001 in classes 16, 36; and United Kingdom trademark No. 00003362073 registered on December 19, 2018 in classes 9, 16, 36.

The Complainant's primary website is located at <artemisfunds.com>.

The disputed domain name was registered on November 19, 2022, and resolves to a 'website not found' error page. The identity of the Respondent was initially shielded by a privacy service.

5. Parties' Contentions

A. Complainant

The Complainant offers fund investments in the United Kingdom, Europe, the United States of America and around the world and says it currently employs 30 fund managers who manage approximately GBP 24 billion worth of funds. Its primary website received over 100,000 visits in a three-month period at the start of 2023. The Complainant claims that it owns the exclusive right to use the ARTEMIS trademarks and that its brand is well-recognized by consumers, industry peers, and the broader global community.

According to the Complainant, it matters not that it does not own registered trademarks in the country of residence of the Respondent. It says that the Respondent has added the generic, descriptive term "funds" to a purposeful misspelling of its ARTEMIS trademark and therefore the disputed domain name must be considered confusingly similar to the Complainant's trademark. The Complainant points out that as the disputed domain name differs from its trademark by just one letter, it constitutes a prototypical example of typosquatting which intentionally takes advantage of Internet users that inadvertently type an incorrect web address. According to the Complainant, a deliberate misspelling of a trademark in a domain name must be confusingly similar by design. This is *a fortiori* the case where the misspelled characters are visually similar in appearance in printed form. Because the Complainant is a funds manager, it says that the addition of the term "funds" to its trademark ARTEMIS only serves to underscore and increase the confusing similarity.

The Complainant points out that neither 'Redacted for Privacy' nor 'Regery Ukraine' resemble the disputed domain name and so there is no evidence that the Respondent is commonly known by that name. Therefore, the latter has no rights or legitimate interests in the disputed domain name, and using a Whols privacy service further reinforces that conclusion according to the Complainant. The Respondent registered the disputed domain name only in November 2022, long after the Complainant started to use and register its ARTEMIS brand, and subsequently failed to make any use or preparations for use of the disputed domain name.

Further the Complainant points out that the composition of the disputed domain name makes it illogical to believe that the Respondent registered it without knowing about and specifically targeting the Complainant, the Respondent having demonstrated a knowledge of and familiarity with the Complainant's brand and business. Any unauthorized use of the ARTEMIS mark with which the Complainant is so closely associated, implies bad faith. The Respondent clearly knew or should have known that it was registering a domain name including what the Complainant says is a well-known trademark, and in any case even a simple search for

“artemis funds” locates many links to the Complainant. Because of the close resemblance with the Complainant’s trademark and the lack of use of the disputed domain name, the Respondent is said to have been acting in obvious bad faith, since no good faith use is in effect possible. The Complainant points out that the Respondent has previously been involved in other cybersquatting-type cases which amounts to a pattern of behavior of this kind, and its use of a privacy shield service is further proof, in accord with previous panel decisions on that point, of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Preliminary consideration

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent’s mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may affect case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. Further to the Rules, the Center transmitted the Written Notice of the Complaint to both the named Privacy Service and Respondent. The Center also sent the Notification of Complaint by email to Respondent at its email address as registered with the Registrar and to a postmaster email address as specified by the Rules. There is no evidence that the case notification email to the disclosed Respondent email address was not successfully delivered.

The Panel also notes that the Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer or cancel the disputed domain name shall be referred to the jurisdiction of the Courts of the location of the principal office of the concerned registrar. In this case, the principal office of the Registrar is in France.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and decides that the administrative proceeding should continue (for a similar procedural decision, see *Netbet Entreprises Ltd v. Privacy Service provided by Withheld for Privacy ehf / Vladimir Vladimir, Crowd inc*, WIPO Case No. [D2022-1420](#)).

B. Identical or Confusingly Similar

The disputed domain name amounts to the clearest possible example of typosquatting where only one letter in the incorporated ARTEMIS trademark has been altered, and that by substitution with a visually similar letter. The ARTEMIS trademark is thus clearly visible and immediately recognizable in the disputed domain name. The addition of the term “funds” does not prevent a finding of confusing similarity between the disputed domain name and the ARTEMIS trademark of the Complainant.

Therefore, the Panel holds that the disputed domain name is confusingly similar to the ARTEMIS registered trademark of the Complainant.

C. Rights or Legitimate Interests

Nothing before the Panel indicates that the Respondent has any rights or legitimate interests in the disputed domain name. The Respondent is clearly not named 'Redacted for Privacy' and if it is 'Regery Ukraine' then that name does not resemble the disputed domain name in any way. The Respondent has sought not to be contactable and has not replied to any of the contentions of the Complainant, or tried to make out a case on the present point. It has no authorization to use the ARTEMIS mark of the Complainant, which is highly distinctive and very widely known in the financial business world. It is difficult to imagine any legitimate use of the ARTEMIS trademark, certainly in conjunction with the term "funds", by any party not expressly authorized to do so by the Complainant, that would form the basis for a claim of rights or interests. The use of a privacy shield service also does not sit well with any contention in that regard. In any case, the Complainant has clearly made out a *prima facie* case in relation to this issue and there has been nothing from the Respondent to counter it.

Therefore, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

D. Registered and Used in Bad Faith

The disputed domain name is a clear example of a carefully chosen and constructed domain name which serves the purpose of cybersquatting on the Complainant's ARTEMIS trademark rights. The conjunction with the term "funds" shows that the Complainant was perfectly aware of the Complainant's trademark at the time of registration and the exclusive rights the latter holds in many jurisdictions for that mark in relation to financial services. The Respondent has made no use of the disputed domain name, or prepared for its use in a manner that would point to good faith on its part, and it is in any case very difficult if not impossible to imagine what use it could make of the disputed domain name that did not rely on misleading or deceiving internet users, and thus be in bad faith.

Therefore, the Panel holds that the disputed domain name was registered and used in bad faith.

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 <artemlsfunds.com> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: July 12, 2023.