

## **ADMINISTRATIVE PANEL DECISION**

Arcadis N.V. v. William Conway

Case No. D2023-2960

### **1. The Parties**

The Complainant is Arcadis N.V., Netherlands (Kingdom of the), represented by Merkenbureau Knijff & Partners B.V., Netherlands (Kingdom of the).

The Respondent is William Conway, United States of America.

### **2. The Domain Name and Registrar**

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 11, 2023. On July 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 13, 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 (privacy protected by the registry) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 13, 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 amendment to the Complaint on July 17, 2023.

The Center verified that the Complaint together with the amendment to the 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 July 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 9, 2023.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on August 14, 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 global company active in delivering sustainable design, engineering and consultancy solutions for natural and built assets.

Among other trademark registrations, the Complainant is the owner of the International trademark registration No. 685022 for ARCADIS, registered on November 20, 1997, in classes 35, 37, 40 and 42.

The Complainant has also registered the domain name <arcadis.com>.

The disputed domain name <arcadisinc.com> was registered on June 12, 2023. Before the filing of the Complaint, the disputed domain name redirected users to a parking page with links relating to real estate. At the decision's date, the disputed domain name did not resolve to an active website.

#### **5. Parties' Contentions**

##### **A. Complainant**

According to the Complainant, the disputed domain name is confusingly similar to its ARCADIS registered trademark as it identically reproduces its trademark with the mere addition of the term "inc", the generic Top-Level Domain ".com" being disregarded due to their purely technical function.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons: (i) the Complainant has no association with the Respondent and has never authorized or licensed the Respondent to use its trademark; (ii) the Respondent is not commonly known by the disputed domain name; and (iii) the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

Finally, the Complainant contends that the Respondent has used and registered the disputed domain name in bad faith. According to the Complainant, the Respondent was aware of the existence of the Complainant and of its trademark when it registered the disputed domain name. The Complainant further asserts that the Respondent has used or is using the disputed domain name for the purpose of generating pay-per-click ("PPC") revenue from the diversion of Internet users, a behavior amounting to registration and use in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

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

#### **A. Identical or Confusingly Similar**

The disputed domain name reproduces the Complainant's trademark ARCADIS in its entirety with no alteration, and combines this trademark with the term "inc".

UDRP panels consider that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element of paragraph 4(a) of the Policy (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

In the present case, the trademark ARCADIS is clearly recognizable in the disputed domain name. The mere addition of the term "inc" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

UDRP panels accept that a generic Top-Level Domain ("gTLD"), such as ".com", may be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark (see [WIPO Overview 3.0](#), section 1.11.1).

The Complainant has satisfied the condition set forth in paragraph 4(a)(i) of the Policy.

#### **B. Rights or Legitimate Interests**

The Respondent has failed to file a response.

Based on the information submitted by the Complainant, the Respondent does not appear to have rights or legitimate interests in respect of the disputed domain name, nor has the Complainant granted to the Respondent an authorization to use the disputed domain name.

There is no evidence on the record suggesting that the Respondent used or made demonstrable preparations to use the disputed domain name in connection with any type of *bona fide* offering of goods or services. Instead, the Respondent used the disputed domain name in connection with a website containing PPC links to third-party websites related to real estate, a field in which the Complainant is active. Applying UDRP paragraph 4(c), UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users (see [WIPO Overview 3.0](#), section 2.9). Accordingly, the Respondent's use of the disputed domain name does not constitute *bona fide* offering of goods and services.

Finally, the Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b). The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name and the burden of production of evidence shifts to the Respondent. The Panel finds that the Respondent's silence leaves un rebutted the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Accordingly, the Panel rules that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Complainant has satisfied the condition set out in paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

The disputed domain name was registered many years after the Complainant first registered and used its ARCADIS trademark. Given the distinctiveness of the Complainant's trademark, the Panel finds it unlikely that the disputed domain name was chosen independently without reference to the Complainant's trademark. Consequently, the Panel considers that the Respondent could not ignore the existence of the Complainant and of its trademark at the time of the registration of the disputed domain name, such that the disputed domain name was registered in bad faith.

Furthermore, the Respondent has used the disputed domain name in connection with a website featuring sponsored links to websites in the field of real estate, *i.e.* website offering services potentially competing with the Complainant's services. This shows, in the Panel's opinion, an intention on the part of the Respondent to exploit and profit from the Complainant's trademark, by attempting to generate financial gains by means of "click through" revenues. Such conduct constitutes bad faith registration and use of the disputed domain name within the meaning of paragraph 4(b)(iv) of the Policy (see *F. Hoffmann-La Roche AG v. James Lee*, WIPO Case No. [D2009-1199](#); *Scania CV AB v. Michael Montrief*, WIPO Case No. [D2009-1149](#); *Aspen Holdings Inc. v. Rick Natsch, Potrero Media Corporation, supra*; and *AllianceBernstein LP v. Texas International Property Associates*, WIPO Case No. [D2008-1230](#)).

For the reasons set out above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith, and that the Complainant has satisfied the condition set forth in 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 <arcadisinc.com> be transferred to the Complainant.

/Anne-Virginie La Spada/

**Anne-Virginie La Spada**

Sole Panelist

Date: August 28, 2023