

ADMINISTRATIVE PANEL DECISION

Fédération AGIRC-ARRCO v. cai hai qing
Case No. D2023-4559

1. The Parties

The Complainant is Fédération AGIRC-ARRCO, France, represented by AARPI Scan Avocats, France.

The Respondent is cai hai qing, China.

2. The Domain Name and Registrar

The disputed domain name <ce-girc-agirc-arrco.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 2, 2023. On November 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 2, 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 November 3, 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 November 3, 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 November 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent’s default on November 28, 2023.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on November 30, 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 the sole institution providing compulsory complementary pension schemes for private-sector employees in France. It was created through the 2019 merger of two organizations, namely, AGIRC (“Association Générale des Institutions de Retraite des Cadres”) and ARRCO (“Association des Régimes de Retraite Complémentaire”), both of which were established in the second half of the twentieth century. The Complainant is the pension provider for approximately 30 million workers in France.

The Complainant is the proprietor of the following trademark registrations:

- French trademark no. 4213686 for RETRAITE COMPLEMENTAIRE AGIRC ET ARRCO (device mark), registered on September 29, 2015, for goods and services in classes 16, 35, 36, 38, 41, 43, 44 and 45;
- French trademark no. 4549762 for RETRAITE COMPLEMENTAIRE AGIRC-ARRCO (device mark), registered on May 9, 2019, for goods and services in classes 16, 35, 36, 38, 41, 43, 44 and 45.

The Complainant operates its primary business website at the domain name <agirc-arrco.fr> (registered in 2002), and has additionally registered the domain name <agirc-arrco.com> (registered in 2000).

The disputed domain name was registered on April 19, 2023. At the time of this Decision, it did not resolve to an active website. The record reflects that it previously resolved to a website featuring pornographic content.

No information is available about the Respondent.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that, in addition to reflecting the dominant part of its registered trademark, the disputed domain name refers to two now-defunct entities previously related to the Complainant, namely, the “Comité d'Entreprise GIRC AGIRC ARRCO”, which was a works council (in French, “comité d'entreprise, commonly abbreviated to “ce”). This entity was established in 2006 but no longer exists. The letters “GIRC” correspond to the acronym for “GIE Informatique de la Retraite Complémentaire” which refers to “GIE INFORMATIQUE DE LA RETRAITE COMPLEMENTAIRE G.I.R.C AGIRC-ARCCO,” a now-defunct entity that was established by the Complainant in the year 2000. The Respondent is not connected to the Complainant and is not known by the disputed domain name. The registration of a domain name that corresponds to the Complainant and its widely known marks cannot be an accident. The disputed domain name resolved to a site featuring pornographic content.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (i) the disputed domain name 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 disputed domain name; and
- (iii) the Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that a dominant element of the Complainant’s RETRAITE COMPLEMENTAIRE AGIRC-ARRCO mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant’s mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “ce” and “girc”) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that the disputed domain name reflects dominant elements of the Complainant's registered mark (namely, "AGIRC-ARRCO"), together with acronyms ("ce" and "girc") that refer to entities formerly operated by the Complainant. UDRP panels have held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. In this case, the Panel finds that the disputed domain name carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel further notes that there is no evidence that the Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish the Respondent's rights or legitimate interests therein. There is no evidence of legitimate noncommercial use or a *bona fide* offering of goods or services. Rather, the disputed domain name resolved to a website featuring pornographic content. Such use does not establish rights or legitimate interests in these circumstances.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. As noted above, the disputed domain name reflects dominant elements of the Complainant's registered marks and closely resembles domain names registered by the Complainant. The additional elements of the disputed domain name refer to businesses previously operated by the Complainant. The record leaves little doubt that the Respondent targeted the Complainant when registering the disputed domain name.

UDRP panels have consistently held that the use of a disputed domain name to redirect to a pornography website, such as the one used by the Respondent, may be evidence of bad faith. See [WIPO Overview 3.0](#), section 3.12. Moreover, this content indicates that the Respondent is using the disputed domain name for commercial gain. The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. See [WIPO Overview 3.0](#), section 3.1. The fact that the disputed domain name is currently inactive does not prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3.

Based on the available record, the Panel finds that the Complainant has established the third 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 <ce-girc-agirc-arrco.com> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: December 14, 2023