

ADMINISTRATIVE PANEL DECISION

Ares Management LLC v. raharja raharja
Case No. D2024-0220

1. The Parties

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

The Respondent is raharja raharja, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <aresmanagementfolio.com> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 18, 2024. On January 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 20, 2024, 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 (Whois Privacy, Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 22, 2024, 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 January 24, 2024.

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 January 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 16, 2024.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on February 23, 2024. 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., which is a global alternative asset manager with USD 395 billion of assets under management and over 2,800 employees. Ares Management, L.P. is traded on the New York Stock Exchange under the ticker symbol "ARES". Ares Management LLC and Ares Management, L.P. (collectively referred to as "Ares") operate in the field of financial services, namely investment advisory and management services for credit, private equity, and real estate. The Complainant is headquartered in Los Angeles and has over 35 global offices in the United States, Europe, Asia, and Australia, including an office in Jakarta, Indonesia.

The Complainant operates under the marks ARES and ARES MANAGEMENT since at least September 1997. The Complainant is the owner of a numerous trademark registrations for "ares" and "ares management" in various jurisdictions, among which the following:

- ARES (word), United States registration No. 3014171, registered on November 8, 2005, claiming a first use in commerce since 2003, for services in class 36;
- ARES MANAGEMENT (word), United States registration No. 3925366, registered on March 1, 2011, claiming a first use in commerce since 1997, for services in class 36.

The Complainant is also the owner of various domain names incorporating its trademarks ARES and ARES MANAGEMENT, among which the domain name <aresmgmt.com> was registered in March 2002. The domain name <aresmanagement.com>, registered in December 2011, redirects to the Complainant's website at "www.aresmgmt.com". The Complainant's investors regularly use the Complainant's website at "www.aresmgmt.com", to access the Complainant's services and a large percentage of the Complainant's business is generated through website traffic.

The disputed domain name was registered on December 13, 2023, and resolves to a parked page of the Registrar.

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 the disputed domain name incorporates its ARES MANAGEMENT mark and that the addition of the term "folio" does not prevent a finding of confusing similarity of the disputed domain name with the Complainant's mark. The fact that the disputed domain name wholly incorporates the Complainant's mark is sufficient to establish identity or confusing similarity for the purpose of the Policy despite the addition of other terms. Moreover, the term "folio" is commonly used in the financial field and therefore creates a direct association with the Complainant's financial services.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant did not authorize or consent the Respondent to make use of the Complainant's marks in the disputed domain name. The Respondent does not own any trademark application or registration for the marks ARES or ARES MANAGEMENT anywhere in the world. The Respondent's name in the Whois information of the disputed domain name does not coincide with the

disputed domain name. Therefore, the Respondent does not appear to be commonly known by the disputed domain name. The disputed domain name resolves to a parked page of the Registrar; accordingly, the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services and is not making a legitimate noncommercial or fair use of the disputed domain name.

Finally, with respect to the Respondent's bad faith in the registration and use of the disputed domain name, the Complainant affirms that its marks enjoy reputation in the financial field due to their longstanding, continuous, and widespread use. Moreover, the Respondent had constructive notice of the Complainant's marks due to their registrations. It is therefore not conceivable that the Respondent did not have knowledge of the Complainant's trademarks at the time of the registration of the disputed domain name.

The disputed domain name resolves to a parked page of the Registrar. Therefore, the Respondent is not using the disputed domain name actively. However, the Respondent's passive use of the disputed domain name cannot prevent a finding of bad faith in light of the reputation of the Complainant's mark and of the fact that the disputed domain name is so obviously connected with the Complainant and its services that its very use by someone with no connection with the Complainant suggests opportunistic bad faith. Moreover, the Respondent set up Mail exchanges ("MX records") for the disputed domain name, which entails that the Respondent could use the disputed domain name to engage in fraudulent emails or phishing communications. Lastly, the Complainant notes that the Respondent used a proxy service provider to register the disputed domain name. As such, the Respondent avoided disclosing its identity. The use of a privacy or proxy registration service to shield the identity of the Respondent serves to elude enforcement efforts by the legitimate trademark owner to demonstrate the Respondent's bad faith in the use and registration of the disputed domain name.

Thus, the Complainant maintains that the Respondent registered the disputed domain name to take advantage of the Complainant's mark.

B. Respondent

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

6. Discussion and Findings

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.

The Complainant has shown rights in respect of the trademark ARES MANAGEMENT for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "folio", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

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 Complainant does not have any relationship with the Respondent and did not authorize the Respondent to make use of its trademarks ARES and ARES MANAGEMENT in any manner whatsoever, including as part of the disputed domain name. Moreover, the Panel cannot find indications that could lead to the conclusion that the Respondent is commonly known by the disputed domain name.

The disputed domain name resolves to the parked page of the Registrar. Thus, the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, and the case file does not contain any indication on the fact that the Respondent is making demonstrable preparations to use the disputed domain name in such connection.

The disputed domain name incorporates the Complainant’s ARES MANAGEMENT trademark followed by the term “folio”, which directly refers to the financial field, the area of business of the Complainant. Thus, the disputed domain name is highly misleading for the Complainant’s public of reference. Through the disputed domain name, the Respondent is trying to impersonate the Complainant or at least is suggesting sponsorship or endorsement by the Complainant. Previous panels have found that where a domain name consists of a trademark plus an additional term, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner.

In light of the above, 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.

In the present case, the Panel notes that the Complainant has claimed that its ARES and ARES MANAGEMENT trademarks enjoy international reputation. In view of the longstanding and widespread use of the Complainant’s marks, the fact that Ares is listed on the New York stock exchange, that it manages a relevant portfolio of assets, the Panel considers that the Complainant’s marks are indeed renown in the financial field. Moreover, the composition of the disputed domain name, which consists of the Complainant’s trademark followed by the word “folio”, which refers to the financial field of business of the Complainant, and the fact that the Complainant has an office in Jakarta, Indonesia, that is where the Respondent is purportedly located, suggest the Respondent’s awareness of the Complainant’s marks when it registered the disputed domain name.

The disputed domain name is passively held by the Respondent. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes that the Complainant's marks are inherently distinctive and enjoy reputation, that the Respondent failed to submit a Response and that it concealed its identity behind a privacy service provider. Taking also into consideration the composition of the disputed domain name, the Panel finds that no good faith use of the disputed domain name is plausible and that the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Furthermore, MX records are set up for the disputed domain name, which would enable the Respondent to send emails under a domain name that is confusingly similar to the Complainant's mark.

In consideration of the foregoing, 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 <aresmanagementfolio.com> be transferred to the Complainant.

/Angelica Lodigiani/
Angelica Lodigiani
Sole Panelist
Date: March 8, 2023