

ADMINISTRATIVE PANEL DECISION

Groupe Courir v. Yanqing Li
Case No. D2024-0233

1. The Parties

The Complainant is Groupe Courir, France, represented by Nameshield, France.

The Respondent is Yanqing Li, China.

2. The Domain Name and Registrar

The disputed domain name <modecourirsoldes.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 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 22, 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 (Redacted for Privacy) 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 in English on January 22, 2024.

On January 22, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On January 22, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in both English and Chinese, and the proceedings commenced on February 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 28, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on March 11, 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 headquartered in France and is active in the fashion industry. The Complainant particularly commercializes sneakers, ready-to-wear and fashion accessories for men, women and children, and in 2018 the Complainant operated 187 stores and 70 affiliated stores in France. The Complainant is also present internationally, with 47 stores located in Spain, Poland, and in the Maghreb, the Middle East and overseas territories.

The Complainant is the owner of an international trademark portfolio with trademark registrations for COURIR, including but not limited to: international trademark COURIR n° 941035 registered since September 25, 2007; European Union trademark COURIR n° 006848881 registered since November 26, 2008; European Union trademark COURIR n° 017257791 registered since March 7, 2017. The Complainant also provides evidence that it possesses a domain name portfolio, including the domain name <courir.com>, which is linked to the Complainant's main website.

The Complainant's abovementioned trademark registrations were registered before the registration date of the disputed domain name, namely January 15, 2024. The Complainant provides evidence that the disputed domain name is linked to an active website on which the Complainant's trademark and logo is prominently used and where sportswear products are purportedly offered for sale.

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 is confusingly similar to its prior registered trademarks since it incorporates the COURIR trademark in its entirety with the mere addition of the descriptive words "mode" and "soldes" (meaning "fashion" and "discounts" in French). Furthermore, the Complainant essentially contends that the Respondent is not affiliated in any way to the Complainant and has no rights or legitimate interests in the Complainant's trademarks. The Complainant also essentially argues that the Respondent connected the disputed domain name to a website offering for sale fashion products in direct competition with the Complainant by reference to the Complainant's trademarks which are prominently used on the website linked to the disputed domain name, without disclosing accurately and prominently the Respondent's lack of relationship with the Complainant. The Complainant contends that such use does not confer any rights or legitimate interests on the Respondent and constitutes evidence of bad faith registration and use of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the English language is the language most widely used in international relations and is one of the working languages of the Center; the fact that the disputed domain name is formed by words in Roman characters (ASCII) and not in Chinese script and the allegation that in order to proceed in Chinese, the Complainant would have had to retain specialized translation services at a cost very likely to be higher than the overall cost of these proceedings.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

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 3.0](#), section 1.7.

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 entirety of the mark COURIR 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, "mode" and "soldes", 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.

Moreover, upon review of the facts and evidence, the Panel notes that the Respondent has not provided any evidence of the use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Instead, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directs to a website which impersonates the Complainant displaying a logo “COURIR” with all letters in capital and a green circle, and purportedly offers for sale fashion products in direct competition with the Complainant. This suggests that the Respondent is using the disputed domain name to mislead Internet users by creating a misleading affiliation with the Complainant. Moreover, even if products offered on such website are legitimate products originating from the Complainant, the website at the disputed domain name does not display any accurate and prominent disclaimer regarding the relationship between the Complainant and the Respondent. The Panel is of the view that the foregoing elements illustrate that the Respondent is not a good faith provider of goods or services under the disputed domain name, see also *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Given the abovementioned elements, the Panel concludes that the Respondent’s use of the disputed domain name does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name.

Finally, the Panel finds that the nature of the disputed domain name, being confusingly similar to the Complainant’s trademarks and containing the descriptive terms “mode” and “soldes” (meaning “fashion” and “sales” in French), which clearly refer to the Complainant’s products and business, carries a risk of implied affiliation and cannot constitute fair use, as it effectively impersonates the Complainant and its products or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Given the longstanding, and intensive use of the Complainant’s prior registered trademarks, the Panel finds that the subsequent registration of the disputed domain name, which is confusingly similar to such marks and contains the descriptive terms “mode” and “soldes” (meaning “fashion” and “discounts” in French), which clearly refer to the Complainant’s products and business, clearly and consciously targeted the Complainant’s prior registered trademarks. On the basis of the foregoing elements, the Panel concludes from this attempt to consciously target the Complainant’s prior trademarks that the Respondent knew of the existence of the Complainant’s trademarks at the time of registering the disputed domain name. This finding is confirmed by the fact that the website linked to the disputed domain name is clearly used to impersonate the Complainant and to purportedly offer for sale products misrepresented as the Complainant’s products, or at least competing with the Complainant’s products, since this proves that the Respondent is fully aware of the Complainant’s business and its prior trademarks. In the Panel’s view, the foregoing elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name directs to an active website which shows a clear intent on the part of the Respondent to impersonate the Complainant and purportedly offers for sale products misrepresented as the Complainant's products, or which are at least competing with the Complainant's products. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to such website, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The Panel therefore finds that it has been demonstrated that the Respondent has used and is using the disputed domain name in bad faith.

The Panel finds the third element of the Policy has been established.

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 <modecourirsoldes.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: March 20, 2024