

ADMINISTRATIVE PANEL DECISION

BP Europa SE v. dmitryi kovalov
Case No. D2024-1158

1. The Parties

The Complainant is BP Europa SE, Germany, represented by Noerr PartG mbB, Germany.

The Respondent is dmitryi kovalov, Iraq.

2. The Domain Name and Registrar

The disputed domain name <aral-investor.info> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 17, 2024. On March 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 18, 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 (Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 19, 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 March 21, 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 March 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 15, 2024. The Respondent did not submit any response. Pursuant to paragraph 6 of the Rules, on April 23, 2024, the Center informed the Parties that it would proceed with the panel appointment process.

The Center appointed Peter Burgstaller as the sole panelist in this matter on April 26, 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 the European Public Limited Company of the BP p.l.c., a British multinational oil and gas company headquartered in London. A subsidiary to the Complainant is the German oil company Aral AG which provides a large petrol station network especially in Germany (Annex 3 and 4 to the Complaint).

The Complainant owns several trademark registrations containing the term ARAL, inter alia

- European Union Trademark Registration (figurative) No. 125443, registered November 3, 1999;
- European Union Trademark Registration (figurative) No. 5610498, registered September 27, 2012;
- German Trademark Registration (figurative) No. 818736, registered April 25, 1966;
- German Trademark Registration (word) No. 1007694, registered September 15, 1980;
- German Trademark Registration (word) No. 405805, registered July 22, 1929 (Annex 5 to the Complaint).

The domain name <aral.de> addresses the official website with ARAL products and services (Annex 4 to the Complaint).

The disputed domain name was registered on February 22, 2024 (Annex 1 to the Complaint). At the time of filing the Complaint the disputed domain name resolved to a website which provided information for investors about the Complainant's subsidiary Aral AG together with the ARAL-Logo and a photograph of the CEO of the Complainant (Annex 6 to the Complaint).

On March 1, 2024, the Complainant informed the Registrar about the content provided on a website addressed by the disputed domain name (Annex 8 to the Complaint).

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 ARAL trademark is highly distinctive and well-known and notes that the disputed domain name contains the ARAL trademark in its entirety, simply adding the descriptive term "investor" together with a hyphen.

The Complainant submits that it is inconceivable that the Respondent would not have been aware of the Complainant's trademark when registering the disputed domain name, since the disputed domain name resolved to a website containing the ARAL logo, a photograph of the Complainant's CEO and an online investment platform where customers can invest into (nonexistent) assets of the Complainant's subsidiary Aral AG together with the possibility to open an account by submitting name, mail address and phone number.

Therefore, the Complainant notes that the disputed domain name is not used for a bona fide offering of goods or services – it is to the contrary: The Respondent's website is a scam, posing to be affiliated with the Complainant and aiming to mislead persons into investing into nonexistent assets. Regardless of the true identity of the Respondent, the Complainant has at no time authorized the registration of domain names containing its trademark and / or the use of its trademarks on the corresponding website.

Hence, the Respondent may have registered or acquired the disputed domain name primarily for scamming purposes to illegally impersonate the Complainant for commercial gain by deceiving unwitting third parties into believing that the Respondent is in some way connected with the Complainant, which is not the case.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (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 with respect to the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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 the mark ARAL for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

In the present case, the disputed domain name is confusingly similar to the ARAL mark in which the Complainant has rights since it incorporates the entirety of the mark ARAL and only adds the term "investor" together with a hyphen.

It has long been established under UDRP decisions that where the relevant trademark is recognizable within the disputed domain name, the mere addition of other terms does not prevent a finding of confusing similarity under the first element of the Policy ([WIPO Overview 3.0](#), section 1.8). This is the case at present.

Finally, it has also long been held that generic Top-level Domains ("gTLDs") (in this case ".info") are generally disregarded when evaluating the confusing similarity of a disputed domain name. [WIPO Overview 3.0](#), section 1.11.1.

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.

While 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 often impossible 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. 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 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 Complainant focuses on the fact that its trademark is highly distinctive and well known and provides suitable evidence of its

reputation, adding that it is inconceivable that the Respondent would not have been aware of this when registering the disputed domain name. The Complainant also notes that the disputed domain name is not being used to provide good faith goods or services via a website, but instead registered and used it for scamming purposes to illegally impersonate the Complainant to gain commercial gain by deceiving unwitting third parties into believing that the Respondent is the Complainant and to invest in nonexistent assets. Such conduct is fraudulent. [WIPO Overview 3.0](#), section 2.5.

The Respondent did not reply to the Complainant's contentions and hence has not rebutted the Complainant's prima facie showing.

The Panel further notes that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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

C. Registered and Used in Bad Faith

As stated in paragraph 4(a)(iii) of the Policy, the Complainant must show registration and use of the disputed domain name in bad faith. These are concurrent requirements.

The Panel notes that 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 regard to the registration of the disputed domain name, the Panel notes that the Complainant has rights and is the owner of the registered trademark ARAL, which is registered and used in business long before the disputed domain name was registered. Moreover, the domain name <aral.de> is used to address the official ARAL-website, for many years and long before the registration of the disputed domain name.

It is inconceivable for this Panel that the Respondent registered the disputed domain name without knowledge of the Complainant's rights, which leads to the necessary inference of bad faith. [WIPO Overview 3.0](#), section 3.2.2.

This finding is supported by the fact that the disputed domain name incorporates the Complainant's trademark ARAL entirely together with the term "investor" together with a hyphen, which indicates that the Respondent was aware of the Complainant and its ARAL mark at the time of registration of the disputed domain name.

Therefore, the Panel is convinced that the disputed domain name was registered in bad faith by the Respondent.

The disputed domain name is also being used in bad faith, putting emphasis on the following:

- the disputed domain name resolved to a website containing the Complainant's ARAL logo, a photograph of the Complainant's CEO and an online investment platform where customers can supposedly invest into (nonexistent) assets of the Complainant's subsidiary Aral AG together with the possibility to open an account by submitting name, mail address and phone number;
- the disputed domain name is used for scamming purposes to illegally impersonate the Complainant likely for a commercial gain by deceiving unwitting third parties into believing that the Respondent is in some way connected with the Complainant, which is not the case.

This clearly constitutes bad faith by willfully misleading and intentionally deceiving Internet users by pretending a false identity in order to likely gain financial advantage and thus an intentional attempt to commit fraud. This fraudulent and deceptive scheme undoubtedly represents bad faith use of the disputed domain name.

Based on the available record, 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 <aral-investor.info> be transferred to the Complainant.

/Peter Burgstaller/

Peter Burgstaller

Sole Panelist

Date: May 10, 2024