

ADMINISTRATIVE PANEL DECISION

Arcadis N.V. v. Papiii Inc
Case No. D2024-1552

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 Papiii Inc, United States of America.

2. The Domain Name and Registrar

The disputed domain name <acrads.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 12, 2024. On April 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 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 (Respondent) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 15, 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 amendment to the Complaint on April 18, 2024.

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 April 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 21, 2024.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on May 27, 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 well-known global company active in among others design, engineering, and management consulting. The Complainant is based in Amsterdam, the Netherlands. It currently operates more than 350 offices across 70 countries and generates approximately EUR 3.4 billion in revenue.

The Complainant was founded as the land reclamation specialist “Nederlandsche Heidemaatschappij” in 1888.

The Complainant owns ARCADIS trademark registrations in many jurisdictions, including the following:

- International trademark reg. No. 685022, ARCADIS, registered on November 20, 1997, in classes 35, 37, 40 and 42; and
- International trademark and device reg. No. 1338353, ARCADIS, registered on February 22, 2016, in classes 35, 36, 37, 39, 40, 41, 42, 44, and 45.

The disputed domain name was registered on February 1, 2024, and it does not resolve to an active website.

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.

The Complainant contends that the disputed domain name consists of a misspelling of the Complainant's trademark ARCADIS.

The Respondent is not affiliated with the Complainant and there is no evidence to suggest that the Respondent has registered the disputed domain name with legitimate interests. The Complainant has never licensed or otherwise permitted the Respondent to use its trademark or to register any domain name including its trademark.

Lastly, the Complainant claims that the Respondent has registered and used the disputed domain name in bad faith. The Respondent acquired and began commercially using the disputed domain name to impersonate the Complainant by creating email addresses on it which appear to be from the Complainant, attempting to engage in fraudulent transactions.

The Complainant requests that the disputed domain name be transferred to it.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed 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 in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel 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 notes that the disputed domain name incorporates the Complainant's trademark with an intentional omission or misspelling of one letter (change of the letter "i" to the letter "l") and finds that the Complainant's mark is clearly recognizable within the disputed domain name. Pursuant to section 1.9 of the [WIPO Overview 3.0](#), a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by UDRP panels to be confusingly similar to the relevant mark for purposes of the first element. Here, the disputed domain name contains sufficiently recognizable aspects of the Complainant's trademark.

As such, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

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.

UDRP panels have held that the use of a domain name for illegal activity, here, claimed as applicable to this case: impersonation/passing off as the Complainant for fraudulent purposes, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Respondent registered the disputed domain name with actual knowledge of the Complainant's internationally recognized ARCADIS trademarks, which were established globally long before the disputed domain name was registered on February 1, 2024.

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, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

In addition to the passive holding of a well-known mark that the Respondent was aware of, panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: impersonation/passing off as the Complainant, to solicit fraudulent payment of and mislead the Complainant's suppliers, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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, <acradls.com> be transferred to the Complainant.

/Eva Fiammenghi/

Eva Fiammenghi

Sole Panelist

Date: June 10, 2024