

ADMINISTRATIVE PANEL DECISION

Ariston S.p.A. v. Ermek Bekbolotov, Aristonbish
Case No. D2024-2874

1. The Parties

The Complainant is Ariston S.p.A., Italy, represented by Mar.Bre Srl, Italy.

The Respondent is Ermek Bekbolotov, Aristonbish, Kyrgyzstan.

2. The Domain Name and Registrar

The disputed domain name <aristonbish.com> is registered with Squarespace Domains II LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 15, 2024. On July 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 15, 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 (aristonbish) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 17, 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 July 17, 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 July 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 16, 2024.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on August 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 an Italian corporation whose global business concerns household appliances, in particular all types of water heaters and air-conditioning apparatus. It is the owner of numerous trademark registrations around the world for the term ARISTON, notably:

- International Trademark no. 684565 for ARISTON and device, registered on August 19, 1997 for, among others, “thermostats” in class 9, “burners, boilers for heating and air conditioning, air conditioners, solar panels, heat pumps, radiators, bath heaters and water heaters” in class 11, and “Construction, repair and installation services” in class 37;
- International Trademark no. 804891 for ARISTON and device, registered on April 7, 2003 for, among others, “Circulating pumps” in class 7, “Electric resistances, printed circuit boards, thermostats.” in class 9, “regulating and safety accessories for gas apparatus, burners, heating apparatus, heating boilers, air conditioning apparatus, solar panels, heat pumps, water heaters, water heaters, heat pumps, radiant heaters” in class 11 and “Installation and repair” in class 37; and
- International Trademark no. 938153 for ARISTON (word mark), registered on June 28, 2007 for, among others, “electric resistances, thermostats” in class 9, “regulating and safety accessories for gas apparatus, shower cubicles, burners, heating and air-conditioning boilers, air conditioning apparatus, solar collectors (heating), radiating plates, heat pumps, heating electric stoves, heating gas stoves, radiators (heating), water heaters, bath tubs.” in class 11 and “installation and repair services related to thermo-sanitary products” in class 37.

The Complainant has registered certain domain names including <ariston.com>, <ariston.kg>, <aristonhome.com>, <aristongroup.com>, <aristonservice.com>, and <aristonshop.com>, which link to the Complainant’s group official websites.

The disputed domain name was registered on September 26, 2023, and resolves to a website on which some services (mainly water heater repairing services) and products (spare parts) related to heating products are offered to consumers in the area of Bishkek, Kyrgyzstan.

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 word “ARISTON” in the disputed domain name makes the latter very similar to the Complainant’s registered trademark, considering that, on the one hand, the word ARISTON has no meaning with regard to the products to which it refers; and on the other hand, the suffix “bish” can be considered as an abbreviation of Bishkek, i.e., a descriptor of the place where the Respondent is located. The Complainant asserts that the addition of a generic descriptive term to the ARISTON mark in the disputed domain names does not lessen the confusing similarity between the disputed domain name and the ARISTON mark. Rather, it strengthens the association between them, the Complainant contends.

The Complainant points out that it is known worldwide by the trademark ARISTON as well as by the domain names which link to the Complainant’s official websites; consequently, the Complainant contends that it is not reasonable to think that the Respondent has been commonly known by the same name or domain name. The Complainant also says that the Respondent has no connection or affiliation with it and has not received any license or consent, express or implied, to use the ARISTON mark in the disputed domain name.

The Complainant says there is no evidence of the Respondent’s use of the disputed domain name in connection with a bona fide offering of goods or services. The Complainant points out that the disputed

domain name resolves to a website where some products (spare parts) and services (mainly repair services) related to the Complainant's goods and services are offered to consumers. The Complainant contends that the Respondent intends to induce the relevant consumers to mistakenly believe that the website at issue holds an association with the Complainant.

In relation to bad faith, the Complainant says that the fact that the disputed domain name resolves to a website in which some products and services related to the Complainant's registered goods and services are offered to the consumers demonstrates that the disputed domain name was registered and is being used in bad faith. In the light of the above, the Complainant maintains that it is self-evident that, by registering and using the disputed domain name, the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's mark as to the relationship between the relevant websites and the offered products/services.

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the registered trademark ARISTON of the Complainant is recognizable 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 another term, here "bish" may bear on the assessment of the second and third elements, the Panel finds the addition of this 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.

There is nothing before the Panel to indicate that the Respondent is commonly known by the disputed domain name or any term such as or similar to ARISTON or has made any legitimate commercial use of such. The website to which the disputed domain name resolves does not offer legitimate ARISTON marked products, but only generic supply and maintenance services. Nothing in the said website justifies or necessitates the inclusion of the term ARISTON in the domain name which links to it. Furthermore, the website does not disclose the relationship (or the lack of) between the Complainant and the Respondent. The Respondent cannot claim a right or a legitimate interest in possessing a domain name that includes a well-established and distinctive trademark to which the Respondent has no entitlement and that can only serve to mislead Internet users.

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 a domain name that includes a well-established trademark widely recognized in the sectors to which it relates. The mark in question is distinctive and registered in many jurisdictions including Kyrgyzstan. In any case, a simple Google or register search would have revealed the rights of the Complainant in the term ARISTON. The fact that the disputed domain name resolves to a website offering goods and services within classes for which the ARISTON mark is registered, further indicates that the Respondent was well aware of the ownership of the mark and the exclusive rights of the Complainant when the disputed domain name was registered.

The disputed domain name resolves to a website which purports to offer repair service for boilers and washing machines in Bishkek, Kyrgyzstan, which includes the supply of replacement parts. Ariston products are not further referred to on the website and there is no good faith reason why a general repair service for boilers and heaters should include in its domain name a widely recognized trademark registered for such products by a wholly unrelated party. The only purpose it can serve is to deceive Internet users into thinking the disputed domain name will lead them to a business legitimately associated with or controlled by the Complainant. Obviously, that is not the case here.

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 <aristonbish.com> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: September 9, 2024.