

## **ADMINISTRATIVE PANEL DECISION**

Acciona, S.A. v. Kirk Rovinsky, Bain & Co.  
Case No. D2024-4494

### **1. The Parties**

The Complainant is Acciona, S.A., Spain, represented by PONS IP, Spain.

The Respondent is Kirk Rovinsky, Bain & Co., United States of America (“United States”).

### **2. The Domain Name and Registrar**

The disputed domain name <acciona-group.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 31, 2024. On October 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 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 (Registry Domain ID: 2906839959\_DOMAIN\_COM-VRSN) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 1, 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 November 12, 2024.

On November 1, 2024, the Center informed the parties in Spanish and English, that the language of the registration agreement for the disputed domain name is English. On November 4, 2024, the Complainant submitted the Complaint translated into English. 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, and the proceedings commenced on November 13, 2024. In accordance with the Rules,

paragraph 5, the due date for Response was December 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 4, 2024.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on December 13, 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 ACCIONA, S.A., a multinational company created in 1997 in Spain. The Complainant is a global group that develops and manages sustainable energy solutions, infrastructure solutions, especially renewable energy. Its activity covers the entire value chain of design, construction, operation and maintenance.


The Complainant achieved sales of EUR 11,195,000,000 in 2022 and EUR 17,021,000,000 in 2023, which is evidence of its clear growth. It is present in more than 65 countries on 5 continents.

The Complainant owns an extensive list of trademark registrations for ACCIONA, which is known to consumers all over the world, reflecting the importance of the company, which is evident in the fact that the Complainant has not limited itself to registering the trademark in Spain or in Europe, but is the owner of a number of trademarks internationally.

As stated in the Annex 15 to the Complaint, the Complainant owns an extensive list of registrations for ACCIONA worldwide. Among these, it is relevant to this decision to mention:

- Spanish trademark No. 2756473 ACCIONA dated February 28, 1997 and granted for classes 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 18, 19, 20, 21, 22, 23, 24, , 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42;

- European Union trademark No. 4644704 for  acciona registered on December 15, 2006, and granted for classes 16, 35, 36, 37, 39, 40, 42;

- United States trademark No. 7915327 for  acciona registered on March 8, 2016 and granted for classes 7,11,35.

The Complainant also owns an extensive number of domain names formed by the mark ACCIONA, listed in the Complaint.

The disputed domain name was registered on August 9, 2024, and redirected to the Complainant's main website. According to the Complainant, the Respondent impersonated a company member to a third party using the disputed domain name.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of the disputed domain name.

Notably, the Complainant states that the disputed domain name is confusingly similar to the trademark - in fact, the disputed domain name includes the trademark in its entirety, followed by the term "GROUP", which has no effect whatsoever in distancing the disputed domain name from the registered trademark.

The Respondent has no rights nor legitimate interests in the disputed domain name, whereas the Respondent has not acquired any trademark rights with respect to the disputed domain name. As stated by the documents presented, the registration and use of the trademark ACCIONA predates the registration of the disputed domain name in decades.

Moreover, the Respondent is not commonly known by the disputed domain name. The Respondent has also not secured a license nor any other authorization from the Complainant to use the trademark. Lastly, the disputed domain name directed to the Complainant's official website, in an attempt to establish a relation between the disputed domain name and the Complainant.

In sum, the Complainant alleges that it is clear that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- 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 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.

The disputed domain name is confusingly similar to the ACCIONA trademark, as the latter is entirely incorporated in the disputed domain name, with the mere addition of the term "GROUP".

The Complainant has presented consistent evidence of ownership of the trademark ACCIONA in jurisdictions throughout the world, by presenting international registrations for it, as well as comprehensive evidence of the use of the trademark.

The use of the trademark with the addition of the term "GROUP" in the disputed domain name does not prevent a finding of confusing similarity with the trademark.

The trademark is clearly recognizable in the disputed domain name and as set out in the WIPO Overview of, section 1.8, the addition of other terms would not prevent a finding that the disputed domain name is confusingly similar to the relevant mark for purposes of the first element.

Lastly, the Panel notes that, in accordance with section 1.11.1 of the [WIPO Overview 3.0](#), the generic Top-Level Domain ("gTLD"), in this case ".com", is disregarded under the first element.

Given the above, the Panel concludes that the disputed domain name is confusingly similar to the registered trademark of the Complainant.

## **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.

The Panel notes that the trademark ACCIONA is widely known as identifying the Complainant’s activities, and that the Complainant did not license this to the Respondent.

Furthermore, the Respondent does not appear to be commonly known by the disputed domain name.

It has also been shown that the Respondent is not making any direct use of the disputed domain name, noting the disputed domain name resolved to the Complainant’s website. The Respondent is not making noncommercial or fair use of the disputed domain name, nor a bona fide offering of goods or services.

The disputed domain name reproduces the Complainant’s mark ACCIONA in its entirety, with the addition of the term “group”, which carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Complainant has established prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such prima facie case.

The Panel, thus, finds for the Complainant under the second element of the Policy.

## **C. Registered and Used in Bad Faith**

The Panel finds that the Respondent has probably registered the disputed domain name with the purpose of taking unfair advantage of the Complainant’s mark.

The composition of the disputed domain name points towards the Respondent’s likely intent to give an impression that the disputed domain name is associated with the Complainant. In the absence of any reasonable explanation for the selection of the disputed domain name by the Respondent, and in the circumstances of this case, the Panel finds that, it is more likely than not, that the disputed domain name has been registered to take unfair advantage due to its value as a trademark owned by the Complainant.

Here, the Panel notes the distinctive and well-known nature of the Complainant’s trademark ACCIONA, the failure of the Respondent to submit a Response, and the implausibility of any good faith use to which the disputed domain name may be put, support a finding of bad faith.

In the totality of the circumstances, the Panel finds the Respondent has registered and is using the disputed domain name in bad faith.

## **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 <acciona-group.com> be transferred to the Complainant.

*/Alvaro Loureiro Oliveira/*

Alvaro Loureiro Oliveira

Sole Panelist

Date: December 23, 2024