

ADMINISTRATIVE PANEL DECISION

Amadeus IT Group, S.A. v. Domains By Proxy, LLC / Narendra Ghimire,
Deep Vision Architects
Case No. DCO2022-0040

1. The Parties

The Complainant is Amadeus IT Group, S.A., Spain, represented by Ubilibet, S.L., Spain.

The Respondent is Domains By Proxy, LLC, United States of America (“United States”) / Narendra Ghimire, Deep Vision Architects, United States, represented by Greenberg & Lieberman, LLC, United States.

2. The Domain Name and Registrar

The disputed domain name <amadeus.co> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 18, 2022. On May 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 19, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 May 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 9, 2022. On May 31, 2022, the Respondent sent an email communication to the Center requesting an extension of the due date for Response. In accordance with paragraph 5(b) of the Rules, the Center extended the due date for Response to June 13, 2022. The Response was filed with the Center June 14, 2022.

The Center appointed Steven A. Maier, Reyes Campello Estebaranz, and Alan L. Limbury as panelists in this matter on July 6, 2022. The Panel finds that it was properly constituted. Each member of 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 publicly-listed company registered in Spain. It is a provider of technology services and solutions dedicated to the travel sector.

The Complainant is the owner of a substantial portfolio of trademark registrations comprising or including the name AMADEUS (collectively the “AMADEUS mark”). It provides evidence of over 150 such registrations in total, dating from 1985 and covering a significant number of territories throughout the world. The Complainant’s registrations include, for example:

- Colombia trademark registration number 132683 for the word mark AMADEUS, registered on December 31, 1985 for services in International Class 39; and

- International trademark number 1321806 for the word mark AMADEUS, registered on June 22, 2016 for goods and services in numerous International Classes and designating over 30 territories under the Madrid Protocol.

The Respondent registered the disputed domain name on October 4, 2021.

The Complainant provides evidence that, on various dates in November and December 2021, the disputed domain name resolved to a webpage at “www.afternic.com” offering the disputed domain name for sale and inviting visitors to complete a form in order to obtain a price.

5. Parties’ Contentions

A. Complainant

The Complainant states that it was founded in 1987 and is a leading provider of technological services and solutions for the whole travel ecosystem, including airlines, airports, ground handlers, car rental agencies, other various transport operators, hotels and event venues, insurance providers, tourism providers, travelers themselves, and more. It states that it is truly a global enterprise, which employs over 15,000 individuals in over 190 countries, with offices across all continents.

In addition to its trademark portfolio referred to above, the Complainant cites a large number of domain name registrations of which it is the owner, including <amadeus.de>, <amadeus.es>, <amadeus.ng>, <amadeus.mx> and numerous other examples of the AMADEUS trademark linked to a country code Top-Level Domain (“ccTLD”).

The Complainant submits that its AMADEUS mark is a well-known trademark, as it has been recognized by, e.g., a previous panel under the UDRP: *Amadeus IT Group S.A. v. Connect Systems / Hostonik.com Web Hosting*, WIPO Case No. [D2018-0252](#).¹

The Complainant submits that the disputed domain name is identical to its AMADEUS trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It contends that “the Complainant is the only entity that is granted rights to exploit the trademark AMADEUS and it has not authorized, licensed, or otherwise permitted Respondent or any other to

¹ The panel in the referenced proceeding considered the Complainant’s AMADEUS trademark to be “well-known”, “long-established” and “distinctive”.

use the trademark.” The Complainant contends that, because the disputed domain name is identical to its well-known trademark, it carries a high risk of implied affiliation with that trademark and effectively impersonates, or suggests affiliation with or sponsorship by, the trademark owner. The Complainant submits, in particular, that the disputed domain name is likely to mislead Internet users into believing it is operated by the Complainant for its customers in Colombia.

The Complainant states that, upon it sending a letter of objection to various parties connected with the disputed domain name, on December 14, 2021, the Registrar removed the disputed domain name from its “Afternic” service offering the disputed domain name for sale, and that the Registrar confirmed that it had forwarded the objection to the Respondent, but the Respondent never contacted the Complainant.

The Complainant adds that it further sent the Respondent a “cease and desist” communication dated May 13, 2022 to which no reply was received. It contends that the Respondent could have replied to that communication setting out any legitimate use he claimed to be making of the disputed domain name².

The Complainant submits that the disputed domain name has been registered and is being used in bad faith.

The Complainant contends that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark can by itself create a presumption of bad faith. The Complainant says that, in such circumstances, the Panel should treat with scepticism any submission that the disputed domain name was registered for the purpose of legitimate speculation as opposed to specifically targeting the Complainant.

The Complainant submits that the Respondent has not attempted to use the disputed domain name for any purpose other than resale, and must be assumed in all the circumstances to have registered the disputed domain name primarily for the purpose of selling it to the Complainant as contemplated by paragraph 4(b)(i) of the Policy. It submits in support of this that its AMADEUS trademark has been used since 1987, that it is distinctive because it has no particular meaning in the context of the services for which it is used, and that it has also been considered a well-known trademark, by, e.g., WIPO Case No. [D2018-0252](#), *supra*.

The Complainant adds that, in the above circumstances, the Respondent cannot credibly claim to have been unaware of the Complainant’s AMADEUS trademark at the time he registered the disputed domain name.

The Complainant further submits that the Respondent registered the disputed domain name to prevent it from reflecting its AMADEUS mark in a corresponding domain name, and that the Respondent has engaged in a pattern of such conduct (paragraph 4(b)(ii) of the Policy). The Complainant states that the Respondent has registered over 100 domain names, some of which are trademark-abusive and correspond to the distinctive trademarks of individual brand owners. While the Complainant provides a search result referring to the total number of the Respondent’s domain names, it does not include a list of these domain names. The Complainant does, however, cite the following examples:

- domain name <roaring.us> corresponding to the trademark ROARING;
- domain name <pliant.us> corresponding to the trademark PLIANT;
- domain name <camarillo.us> corresponding to the trademark CAMARILLO;
- domain name <messenger.us> corresponding to the trademark MESSENGER;
- domain name <waterai.com> corresponding to the trademark WATERAI;
- domain name <powerparenting.com> corresponding to the trademark PARENTING POWER; and
- domain name <deepbluetechnology.com> corresponding to the trademark DEEPBLUE TECHNOLOGY.³

The Complainant further submits that any passive holding of the disputed domain name by the Respondent does not detract from the circumstances indicating registration and use of the disputed domain name in bad faith in this case.

² The Complainant provides copies of its communications to the Registrar and to the Respondent.

³ The Complaint includes links to the TMview trademarks database results for each of these examples.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent states that his business is that of a domain investor, or “domainer” and that he has carried on this business since 2013.

The Respondent says that the disputed domain name was available for registration from July 19, 2021 until October 4, 2021, which was the date on which he purchased it for USD 800. He states that he did so because it comprised a single-word generic term which he believed would appreciate in value.

The Respondent asserts that the disputed domain name had previously been registered by six other entities. (While he purports to exhibit evidence to this effect, the Panel has been able clearly to discern only one previous owner from this information.)

The Respondent submits that the name “amadeus” is a “generic word” commonly used. He says that it is best known by association with Wolfgang Amadeus Mozart but is also a common surname. The Respondent exhibits a WIPO trademark search against the term “amadeus” and relies upon this as evidence that over one thousand companies use that term as part of their trademark. He also exhibits a Dun & Bradstreet report including numerous instances of the name “amadeus” in use in commerce.

The Respondent admits that the disputed domain name is identical to the Complainant’s trademark AMADEUS. He submits, however, that he had never heard of the Complainant “prior to the receipt of the cease and desist letter just before the filing of this Complaint” and he questions the Complainant’s contention that its AMADEUS mark is famous or widely known worldwide. He further submits, in this respect, that it is irrelevant that the Complainant sent him a cease and desist letter prior to the filing of the Complaint. He says that there is no obligation for anyone to respond to correspondence, and this cannot be the basis for considering that he had no rights in the disputed domain name. The Respondent asserts that he has rights or legitimate interests in respect of the disputed domain name by virtue of having purchased it, considering that it was a “generic” name, for USD 800, for resale in the course his business as a domainer. He contends that there is nothing in the Policy or elsewhere which makes such actions illegitimate. The Respondent submits that, on the contrary: “The ICANN Policy is very narrow in scope; it covers only clear cases of ‘cybersquatting’ and ‘cyberpiracy’, not every dispute that might arise over a domain name.”⁴

The Respondent disputes the Complainant’s submission that he has engaged in a pattern of trademark-abusive domain name registrations. He contends that his domain names such as <roaring.us>, <pliant.us>, and <camarillo.us> merely illustrate the fact that he registers generic names for resale and “it is hardly surprising that there are numerous trademarks for these generic words as well”. The Respondent states that he had never been the subject of a complaint under the UDRP prior to the current proceeding.

The Respondent submits that he has only ever used the disputed domain name for the purpose of resale. He states in this regard that “... there are 1000’s of other companies that use the word AMADEUS and it is irrelevant to Respondent who agrees to buy the domain.”

The Respondent submits that the Complainant cannot meet the burden of demonstrating either that he registered or has used the disputed domain name in bad faith. He states that the Complainant has produced no credible facts in support of either element. He contends that, on the contrary, the Complainant has not provided any evidence that he was aware of the Complainant, had any intention of targeting the Complainant’s trademark or has used the disputed domain name unfairly to prejudice the Complainant.

The Respondent submits that this proceeding is an attempt at reverse domain name hijacking (“RDNH”) under the Policy. He states that there was no plausible basis for a complaint within the ambit of the Policy

⁴ *Second Staff Report on Implementation Documents for the Uniform Dispute Resolution Policy* (ICANN, October 24, 1999)

and that the Complainant must have known that the name “amadeus” was in use by thousands of companies and individuals in addition to the Complainant.

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of 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

The disputed domain name is identical to the Complainant’s trademark AMADEUS, ignoring the ccTLD “.co”, which is typically to be disregarded for the purpose of comparison under paragraph 4(a)(i) of the Policy. The Panel therefore unanimously finds that the disputed domain name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The conclusions of the Panel in respect of the second and third elements under paragraph 4(a) of the Policy are divided. The following findings are those of Panelists Maier and Limbury (“the Majority Panelists” or “the Majority of the Panel”), and there appears below in section 8 of this Decision the dissenting opinion of Panelist Campello Estebarez.

It is well established in decisions under the UDRP, as reflected in section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), that “... generally speaking, panels have accepted that aggregating and holding domain names (usually for resale) consisting of acronyms, dictionary words, or common phrases can be bona fide and is not per se illegitimate under the UDRP.” In such cases, however, the panel must be satisfied that the registrant did not register the domain name in question with the relevant complainant’s trademark in mind and with the intention of “targeting” that trademark by taking unfair advantage of the complainant’s goodwill attaching to it.

In this case, the Majority Panelists note the widespread use of the name “amadeus”, not only by individuals for both given names and surnames, but also by a very large number of businesses in connection with their commercial activities. In addition to the evidence provided by the Respondent, the Panel has, for the purposes of enquiry, conducted a search against the term “amadeus” at United Kingdom Companies House. That search produced over 140 registered companies in the United Kingdom alone that utilize the term “amadeus” as part of their business name, which results do not of course include unincorporated businesses. While accepting that a number of these entities (and also those identified by the Respondent) may include the Complainant’s subsidiary or associated companies, the Majority Panelists readily conclude on the available evidence that the name “amadeus” is in common commercial usage by a large number of different entities for a range of goods and services in a significant number of geographical territories.

In these circumstances, the Majority Panelists are unable to conclude, on the balance of probabilities, that the Respondent had the Complainant’s trademark in mind, and targeted that trademark, when he registered the disputed domain name and offered the disputed domain name for sale. The burden of proof in this regard falls upon the Complainant, and since the Complainant has no direct evidence that the Respondent targeted its AMADEUS mark, it effectively invites the Panel to infer that it did so by virtue of the well-known status of that trademark (at least as determined by a previous panel under the UDRP). However, the

Majority Panelists do not see any persuasive basis upon which to draw such an inference. The mark AMADEUS is not a coined term invented by the Complainant, nor is the Complainant by any means the only user of that name in commerce. The fact that the Complainant may be a prominent and widely-known user of the AMADEUS trademark does not negate the fact that there are multiple other entities which also own trademarks for the term “amadeus” and/or use that name in the course of business and which, crucially, could legitimately use the disputed domain name in conjunction with their independent rights in that name.

In these circumstances, the Majority Panelists accept on balance the Respondent’s argument that he hoped to sell the disputed domain name for a profit to one of the entities which used that term in its business and did not specifically target the Complainant by way of his registration or use of the disputed domain name. The Majority Panelists note in this regard paragraph 4(b)(i) of the Policy requires an intention to sell “to the complainant... or a competitor of that complainant,” and not to any one of a number of legitimate users of the name in question.

While noting that the Respondent paid USD 800 for the disputed domain name, the Majority Panelists do not consider this to be an unduly large price for a domain name reflecting a commonly-used term and do not find this factor to be indicative of an attempt to target the Complainant in particular.

The Majority Panelists also incline towards the Respondent’s contention that the list of other domain names registered by the Respondent tends to support the Respondent’s rather than the Complainant’s case. None of the seven examples cited by the Complainant appear to the Majority Panelists to constitute obvious cases of cybersquatting, despite these apparently being the seven most persuasive examples that the Complainant was able to select from a list of over 100 domain names. The Majority Panelists note further that, despite the Complainant’s assertion of a pattern of bad-faith registrations on the part of the Respondent, the Respondent has not been the subject of any prior adverse finding under the UDRP.

The Majority Panelists find in the circumstances that the Complainant has failed to meet its burden under the second element. The Complaint must fail accordingly.

C. Registered and Used in Bad Faith

While the Majority Panelists’ findings in respect of rights or legitimate interests are sufficient to dispose of this proceeding, the Majority Panelists also record their view that the disputed domain name was neither registered, nor has been used, in bad faith. The reason for that conclusion is broadly the same as that outlined above, namely, that in view of the widespread use of the name “amadeus” in commerce by a wide range of business entities, the Complainant has failed to meet the burden of showing that the Respondent registered and has used the disputed domain name with the purpose of targeting the Complainant’s AMADEUS mark and the goodwill attaching to it.

7. Reverse Domain Name Hijacking

Under paragraph 15(e) of the Rules: “If after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.”

The Majority Panelists themselves take differing views on this question. Panelist Limbury finds that the Complainant’s proceeding was brought in bad faith and constitutes an attempt at RDNH. He takes this view because he believes the Complainant must have been aware of the widespread use of the name “amadeus” in commerce, and also because of its false statement that “the Complainant is the only entity that is granted rights to exploit the trademark AMADEUS.”

However, Panelist Maier believes that the Complainant was referring in that submission to its own trademark registration and that (while not carefully worded) the statement was not made dishonestly. Panelist Maier

finds further that, while the Respondent's registration of the disputed domain name has not been found by the Majority Panelists to be abusive under the UDRP, it was nevertheless opportunistic in nature and also that the disputed domain name (including the ccTLD ".co") bears an obvious resemblance to the domain name <amadeus.com>, where the Complainant's principal website is located – while of perhaps some note, it is however ultimately the burden of the Complainant to show that such correlation would support an inference or finding of targeting. Panelist Maier finds in these circumstances that the Complainant's objection to the disputed domain name was understandable, if not correct. Panelist Maier would also find it difficult to conclude that the Complaint was brought in bad faith in circumstances where the Panel has not reached a unanimous decision on the second and third elements under paragraph 4(a) of the Policy.

Since Panelist Campello Estebarez, as appears below in section 8 of this Decision, does not find that the Complainant was brought in bad faith, the Panel declines by a majority to make a finding to that effect.

8. Dissenting Opinion

Panelist Campello Estebarez respectfully disagrees with the decision of the Majority of the Panel and submits the following Dissenting Opinion under paragraph 15 of the Rules.

Panelist Campello Estebarez respectfully considers that the use of a domain name in connection with a *bona fide* business of trading in domain names may, in appropriate circumstances, confer rights or legitimate interests under the Policy. However, this case falls in a grey area in where, although different opinions may be acceptable under the Policy, taking into consideration all relevant circumstances, in a balance of probabilities, this balance points to transfer the disputed domain name to the Complainant, for the reasons below.

This Panelist respectfully considers that there are several key circumstances not taken into account or into consideration by the Majority Panelists, which are relevant to the fair decision of this case. These key relevant circumstances include the following:

(i) the Complainant's trademark rights for the AMADEUS mark are registered in many jurisdictions around the world, including both Colombia (cited in the "Factual Background" of this Decision), and the United States, where the Respondent is located according to the Registrar verification and the Response. In particular, for the United States, the Complainant has, not only various International registrations (including International trademark number 1321806, *supra*, which designates, among other jurisdictions, the United States and Colombia), but also various United States trademark registrations, including: United States trademark registration number 1529969, for the word mark AMADEUS, registered on March 14, 1989, for goods and services in the International Classes 35, 39, and 42; and United States trademark registration number 5337489, for the word mark AMADEUS, registered on November 21, 2017, for goods and services in the International Classes 9, 35, 36, 38, 39, 41, 42, 43, and 45;

(ii) the Complainant has continuously used the AMADEUS mark for over 30 years (since 1987). This circumstance was alleged in the Complaint, and has been recognized in various prior decisions under the Policy;⁵

(iii) the Complainant uses the AMADEUS mark extensively and internationally, over the Internet and in many jurisdictions (up to 190), including the relevant countries for this case, the United States (where the Respondent is located), and Colombia (to which ccTLD refers the disputed domain name). The Complainant operates globally having offices in all five continents, and, specifically, in Colombia (one office), and in the United States (four offices). Particularly, in the United States, the Complainant operates under the AMADEUS mark for over 30 years, since, at least, 1989. Additionally, the Complainant hosts an extensive

⁵ See, e.g., *Amadeus IT Group, S.A. v. Registration Private, Domains By Proxy, LLC / I S, Internet Consulting Services Inc.*, WIPO Case No. [D2018-0280](#); or *Amadeus IT Group S.A. v. Connect Systems / Hostonik.com Web Hosting*, *supra*.

partnership program, which includes many companies in a broad spectrum of industries, including famous United States and international corporations (such as Microsoft, AXA partners, or KPMG Business Traveler, Accenture, Adobe, etc.);⁶

(iv) the Complainant's business covers a broad spectrum of technological products and services, addressed not only to companies/professionals in many industries (tourism, travel, financial, insurance, hotels, restaurants, etc.), but also to the general public. The Complainant's solutions include an ample palette of apps and other tools addressed and used by the public on a daily basis (such as "CheckMyTrip", world leading travel app in 2018, "Amadeus e-Travel Management", "Amadeus Hotel Platform", "Amadeus B2B Wallet", "Amadeus Xchange Payment Platform", and many more);⁷

(v) according to the searchable WIPO Cases and WIPO Panel Decisions database, the Complainant's trademark is been subject to several previous UDRP cases, where the well-known and distinctive character of the AMADEUS mark has been recognized. These decisions include, among others, *Amadeus IT Group S.A. v. Connect Systems / Hostonik.com Web Hosting*, supra (cited as an example by the Complainant), *Amadeus IT Group, S.A. v. Registration Private, Domains By Proxy, LLC / I S, Internet Consulting Services Inc.*, supra; *Amadeus IT Group, S.A. v. Whoisguard, Inc. / Brendan De Celis*, WIPO Case No. [D2016-0415](#); *AMADEUS IT GROUP, S.A. v. Karla Guajardo*, WIPO Case No. [D2015-0167](#);⁸ *AMADEUS IT GROUP, S.A. v. Francisco G.*, WIPO Case No. [D2015-1795](#);⁹ *AMADEUS IT GROUP, S.A. v. Contact Privacy Inc. Customer 0151133672, Contact Privacy Inc. Customer 0151133672 / Milen Radumilo*, WIPO Case No. [D2018-2192](#); and *Amadeus IT Group, S.A. v. WhoisGuard, Inc., WhoisGuard, Inc. / PAVEL TREMBLAY, TREMBLAY WORLDWIDE CORPORATION*, WIPO Case No. [D2019-0744](#);¹⁰

(vi) the fact that there are various prior UDRP decisions referring to the Complainant's AMADEUS mark, may indicate that this trademark is not only well-known, but a frequent target for cybersquatting;

(vii) albeit the Complainant owns many domain names comprising its trademark, it uses for its main corporate website the domain name <amadeus.com> (registered on November 30, 1992), which is almost identical to the disputed domain name. This domain name resolves to the Complainant's main corporate website ("www.amadeus.com"), in English and Spanish languages, where it promotes and offers its various products, services and solutions, and this Panelist has ascertained, through the Internet archive WayBackMachine, that the site "www.amadeus.com" has been continuously used since, at least, 2001;

(viii) the word "amadeus" is not included in any dictionary, not having any particular meaning in any living language. It is a rare first name of Latin origin or a rare surname,¹¹ not included in any dictionary, which does not, therefore, possess any particular meaning to the public; and

(ix) any search over the Internet reveals the Complainant, its reputed AMADEUS mark, and its websites; and any search over the United States Patent and Trademark Office ("USPTO"), or any other trademark database, reveals the Complainant's trademarks.

Under these circumstances, Panelist Campello Estebarez considers that, in a balance of probabilities, the Respondent, being a "domainer", knew or should have known about the existence of the well-known

⁶ In this respect, Panelist Campello Estebarez, under her general powers articulated, *inter alia*, in paragraph 10 of the Rules, has consulted the Complainant's website "www.amadeus.com".

⁷ In this respect, Panelist Campello Estebarez has consulted the Complainant's website "www.amadeus.com".

⁸ In this decision, it is indicated, "the AMADEUS mark is well known in the field of air transport and tourism, as well as to the users of these services".

⁹ This decision followed *AMADEUS IT GROUP, S.A. v. Karla Guajardo*, supra, reiterating, "the AMADEUS mark is well known in the field of air transport and tourism, as well as to the users of these services."

¹⁰ In this decision, it is indicated, "The Panel recalls that the trademark AMADEUS is a well-known trademark and is used and registered long before the disputed domain name was registered".

¹¹ The evidence provided by the Respondent (Exhibit E to the Response) indicates that there are only "approximately 125 people bear this surname" worldwide.

AMADEUS mark, and had it in mind when it registered the disputed domain name. The Respondent cannot credibly claim to have been unaware of the Complainant's trademark. He knew or should have known that the disputed domain name is identical to the Complainant's reputed trademark AMADEUS and it is almost identical to the Complainant's domain name used for its main website ("www.amadeus.com"), and targeted the Complainant and its prior rights in bad faith. The notion of "knew or should have known" is normally applied to cases with similar circumstances, related to widely known trademarks, and, particularly, when the respondent is a "domainer". See section 3.2.2 of the [WIPO Overview 3.0](#).

The Respondent alleges that it acquired the disputed domain name for USD 800, solely in consideration to the value that it may have in the market due to its nature as a "single-word generic term". He further alleges that he had no idea of the existence of the Complainant and its well-known trademark, and did not consider the value that the disputed domain name may have due to its identity to the Complainant's reputed trademark and its almost identity to the Complainant's main corporate website. Panelist Campello Estebarez simply cannot believe such allegations.

The Respondent, as everybody nowadays, may most probably be a user of air transport and tourism services, and, therefore, familiar with the AMADEUS mark. Prior decisions under the Policy have recognized that the AMADEUS mark is well known in the field of air transport and tourism, as well as to the users of these services (panel translation, see, e.g., *AMADEUS IT GROUP, S.A. v. Karla Guajardo, supra*, and *AMADEUS IT GROUP, S.A. v. Francisco G., supra*). The Respondent may most probably be a user of the ample palette of tools, apps, and various solutions provided by the Complainant to all travelers worldwide, including in the United States, where the Respondent is located. It is hardly believable that he has never caught a plane, never travelled anywhere, had never booked, confirmed and paid for a travel ticket, etc., through the Complainant's various solutions, and/or has never heard about these solutions, so, consequently, was not aware of the well-known AMADEUS mark.

Moreover, the Respondent has admitted to be a "domainer", which implies a certain degree of attention as well as an affirmative obligation to avoid the registration of trademark-abusive domain names, undertaking good faith efforts to screen such registrations against readily-available online databases, such as the USPTO trademark database for the Respondent's jurisdiction, or other trademark databases.

Panelist Campello Estebarez notes that any search over the Internet reveals, prominently, the Complainant, its well-known mark, and its main website ("www.amadeus.com"). Any search over the USPTO database (referred to the jurisdiction where the Respondent is located), equally reveals, in a prominent form, the Complainant's prior rights, which are valid and extensively used in the United States over more than 30 years (since 1989), and where the Complainant has various offices (4) and many important partners. This Panelist further notes that the Complainant, its many trademark registrations (nearly 200), as well as various companies in the Complainant's group or its partnership program, were included in the evidence provided by the Respondent himself (Exhibits C and D to the Response). The searches provided by the Respondent, Exhibits D and C to the Response, include in their first page, as very first result for each search, a reference to the Complainant and to its well-known trademark respectively.

The Respondent, however, alleges that he had no previous knowledge of the Complainant and its trademark until it received the Complainant's cease and desist letter, and certainly not prior to his acquisition of the disputed domain name. This allegation is simply unbelievable, and, additionally, implies, in Panelist Campello Estebarez's view, that the Respondent conducted no search to avoid the acquisition/registration of a trademark-abusive domain name, prior to the acquisition of the disputed domain name, because any search would have revealed, in a noticeable way, the Complainant and its prior rights. Prior decisions have consistently considered that respondents who (deliberately) fail to search and/or screen registrations against available online databases would be responsible for any resulting abusive registrations under the concept of "willful blindness". This is clearly the case here. See section 3.2.3 of the [WIPO Overview 3.0](#).

The Respondent has further alleged that the term "amadeus" is a "single-word generic term" or "a generic word" used by thousands of companies and in thousands of trademarks, "to which no single person or entity may have an exclusive right". The Respondent seems to confuse the notions of a "generic term", a "term

included in the dictionary”, and a “term commonly used”. In this respect, Panelist Campello Estebaranz considers that the word “amadeus” is not a generic word with reference to the products and services covered by the Complainant’s trademarks, and it is not included in the dictionary of any living language. Furthermore, although various companies may use this word in their names and/or trademarks (not as many as indicated by the Respondent), in any case, this circumstance alone cannot confer rights or legitimate interests to the Respondent, and cannot cure his bad faith. Merely registering a domain name comprised of a common phrase or word does not, by itself, automatically confer rights or legitimate interests. In order to find rights or legitimate interests in a domain name, it should be genuinely used, and not to trade off third-party trademark rights. See section 2.10 of the [WIPO Overview 3.0](#).

Panelist Campello Estebaranz has ascertained the evidence provided by the Respondent (Exhibits C and D to the Response), through searches in the WIPO Global Brand Database and in the TMview,¹² finding less than 460 active trademarks including or comprising the word “amadeus” worldwide,¹³ and noting that nearly half of these results are trademarks owned by the Complainant or its group. This Panelist further notes that most of the companies included in the evidence provided by the Respondent (Exhibit D to the Response) operate in the same sector in which the Complainant operates, namely in the field of “data processing, hosting, and related services”, “computer systems design and related services”, or “travel arrangement and reservation services”, and other related services. These circumstances, in a balance of probabilities, taking into consideration the reputation of the Complainant, its extensive operations worldwide, and its global partnership program, leads this Panelist to consider that most of the companies listed in the Respondent’s evidence may be affiliated to the Complainant and/or its business or corporate group.

Panelist Campello Estebaranz has not had the opportunity of analyzing the results of a search for registered companies in the United Kingdom mentioned by the Majority Panelists in their decision, which is not in the record. However, due to the same above-mentioned circumstances, and, particularly, the reputation and spread out across the globe use of the Complainant’s trademark and its partnership program, same considerations may apply to these results, most probably referring to companies affiliated to the Complainant. Furthermore, it is to be noted that the United Kingdom is not a relevant country to this case.

Additionally, in any case, Panelist Campello Estebaranz considers that the existence of various companies using the name “amadeus” does not by itself automatically confer rights or legitimate interests to the Respondent, and does not cure his bad faith regarding the Complainant and its well-known trademark. This Panelist considers that the fact the Respondent targeted the Complainant’s trademark in bad faith cannot be cured by the allegation that this target was not alone or exclusively to the Complainant and his trademark, but included as well other third parties’ brands. The fact that the Respondent in effect may have targeted more than one trademark, even if such allegation would be true, does not cure or dilute his existing bad faith in relation to the Complainant and its well-known trademark. The Respondent knew (or should have known) of the Complainant and its well-known trademark (prominently included in any search over the Internet, in any trademark search, as well as in the first page of each of the searches provided as evidence by the Respondent himself, Exhibits C and D to the Response), when he acquired disputed domain name; and this circumstance cannot be cured by the circumstance that he may also had in mind other potential interested parties in the disputed domain name.

In other words, when the Respondent acquired the disputed domain name his decision was motivated, in a balance of probabilities, due to the circumstances of the case, primarily by the value that the disputed domain name may have due to its identity to the well-known AMADEUS mark and its almost identity to the Complainant’s domain name used for its main website at “www.amadeus.com”. Possibly, as an additional motivation, the Respondent had also in mind the value that the disputed domain name may have to other brand owners, but this circumstance does not cure his bad faith in relation to his main or primarily target: the Complainant and its reputed trademark.

¹² The European Union Intellectual Property Office’s Trademark Database.

¹³ Excluding all pending and inactive trademark registrations, and considering only active registrations.

Panelist Campello Estebanz further considers that the circumstances of this case and the evidence provided by the Parties indicate that the disputed domain name was offered for sale at a price exceeding its normal out-of-pocket registration costs. The Respondent has indicated that he acquired the disputed domain name for USD 800, so it is reasonable to consider that he intended to sale it for a profit, for a price over this sum.

The Complainant has further alleged other factors that corroborate the Respondent's bad faith, including: (a) the use of privacy services for the registration of the disputed domain name; (b) the Respondent's absence of reply to the Complainant's communications prior to the Complaint; and (c) a pattern of bad faith showed by the registration of other domain names corresponding to third parties' trademarks (providing 7 examples).¹⁴ This Panelist would like to address briefly each of these factors:

(a) regarding the use of privacy services to conceal the Respondent's identity, this Panelist notes that the Respondent has not alleged any privacy regulations that may justify the use of these services, and, being a "domainer," the Respondent should be naturally interested in receiving offers and facilitating his contact to potential customers for his business;

(b) Regarding the cease and desist letter and other communications sent by the Complainant (to the Respondent, the Registrar and other entities), this Panelist notes that the Registrar took into account the Complainant's objection considering it founded, and removed the disputed domain name from its "Afternic" offer for sale service a few months before the filing of the Complaint. This fact obviously could not have gone unnoticed to the Respondent, and must have been notified to him; furthermore, the Respondent confirmed, in the Response, that he received the Complainant's further direct cease and desist communication. However, instead of responding to any of these communications, the Respondent has indicated, "there is not obligation for anyone to respond to correspondence", which, in this Panelist's view, may be true, but certainly manifest a lack of willingness to solve the dispute amicably in good faith; and

(c) regarding other of the Respondent's domain name examples, this Panelist notes that these examples were admitted by the Respondent,¹⁵ and refer to domain names comprising dictionary words that correspond to various third parties' trademarks, which are illustrative of the Respondent's business. This Panelist considers that these examples show that the Respondent's business is moving in a grey area targeting names used as trademarks by various companies, which may be "dictionary words", but this fact alone does not automatically confer rights or legitimate interests to the Respondent. Therefore, these cases may represent an illegitimate pattern of conduct. The circumstance that apparently none of these trademark owners has yet filed a complaint under the UDRP (which may be the reason why the Respondent has not yet been subject of any prior adverse finding under the Policy), neither exclude the possibility that they may do so in the future, nor it affect the legitimacy/illegitimacy of the Respondent's conduct.

In conclusion, Panelist Campello Estebanz considers that all the cumulative circumstances of this case indicate, in a balance of probabilities, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and targeted the Complainant and its reputed trademark in bad faith to unfairly profit from its reputation.

This Panelist finds within the meaning of paragraph 4 (b)(i) of the Policy, that the Respondent acquired the disputed domain name with the intention of transferring it primarily to the Complainant or to its competitors for a price exceeding its normal out-of-pocket registration costs, showing opportunistic bad faith, in an attempt to profit from the Complainant's reputation. In this respect, it is to be noted that paragraph 4 (b)(i) of the Policy, does not refer to cases where the disputed domain name was acquired "solely" or "exclusively" for the purpose of transferring it to the Complainant or to its competitors, but "primarily" for such purpose

¹⁴ The Complainant cites the domain names <roaring.us>, <pliant.us>, <camarillo.us>, <messenger.us>, <waterai.com>, <powerparenting.com>, and <deepbluetechology.com>.

¹⁵ In the Response, the Respondent admits that he owns the disputed domain names cited as examples by the Complaint listed in footnote number 14.

including this last word (“primarily”).¹⁶ The well-known character of the Complainant’s trademark, its prominent presence in over the Internet and extensive global use over more than 30 years in technological tools and apps used on a daily basis by the general public, including in the United States, indicate that the Respondent had primarily in mind the Complainant and its trademark, when he acquired the disputed domain name and offered it for sale.

Additionally, the fact that the disputed domain name is almost identical to the Complainant’s domain name <amadeus.com>, which resolves to its main website “www.amadeus.com” (used, at least, since 2001), further places the Complainant as the main target of the Respondent’s conduct. The disputed domain name generates an obvious likelihood of confusion and affiliation among Internet users, which may disrupt the Complainant and its business.

Therefore, in summary, Panelist Campello Estebaranz considers that Complaint meets all three elements of paragraph 4(a) of the Policy, and finds that the disputed domain name should have been transferred to the Complainant.

Finally, regarding the question of the alleged Reverse Domain Name Hijacking (“RDNH”), Panelist Campello Estebaranz agrees to the considerations made by Panelist Maier that further support this dissenting opinion, specially taking into consideration that the Complainant indeed showed the correlation (and almost identity) of the disputed domain name and its main website’s domain name, and how such correlation supports an inference or finding of targeting. Additionally, Panelist Campello Estebaranz considers that the Complainant was forced to file the Complaint by the Respondent’s lack of response to the Complainant’s various communications and cease and desist letter prior to the Complaint. This fact corroborates both the Complainant’s good faith and the Respondent’s bad faith.

9. Decision

For the foregoing reasons the Complaint is denied.

/Steven A. Maier/
Steven A. Maier
Presiding Panelist

/Reyes Campello Estebaranz/
Reyes Campello Estebaranz (Dissenting)
Panelist

/Alan L. Limbury/
Alan L. Limbury
Panelist
Date: July 25, 2022

¹⁶ Paragraph 4 (b)(i) of the Policy, specifically indicates: “circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name” (emphasis added).