

ADMINISTRATIVE PANEL DECISION

Axel Springer SE v. Milen Radumilo
Case No. DCO2022-0048

1. The Parties

The Complainant is Axel Springer SE, Germany, represented by Nameshield, France.

The Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <aviv-group.co> is registered with Communigal Communications Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 14, 2022. On June 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 16, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on June 22, 2022, 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 June 22, 2022.

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 July 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 29, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on August 5, 2022. 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 Axel Springer, a media and technology company active in more than 40 countries and The Aviv Group, one of the world's largest digital real state tech companies, is part of Axel Springer.

The Complainant owns the European Union Trade Mark AVIV GROUP (figurative) Registration No. 018093284, registered on July 10, 2019, as well as the domain name <aviv-group.com> which was registered on November 4, 2019, for services in Classes 35, 41, 42, and 45.

The disputed domain name was registered on November 26, 2021, and redirected to a website containing malware.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is identical to its trademark AVIVGROUP, only adding the country code Top-Level Domain ("ccTLD") suffix ".CO", which does not avoid the finding of a confusingly similarity.

The Complainant alleges that the Respondent has no license or authorization from the Complainant and also no relationship with the Complainant. Furthermore, the Complainant says that the Respondent is not commonly known by the disputed domain name and that the disputed domain name was registered without any rights or legitimate interests.

The Complainant informs that the disputed domain name points to a malware website and that this illegal activity can never confer rights or legitimate interests on the Respondent.

In addition, the Complainant argues that it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's trademark rights, since the disputed domain name entirely reproduces the Complainant's trademark "AVIV-GROUP".

The Complainant also says and shows evidence that the disputed domain name is for sale and that the Respondent does not make use of it.

Finally, the Complainant concludes that the disputed domain name was registered and is being used in bad faith.

The Complainant, therefore, requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

As per 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;

- (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 evidence presented to the Panel demonstrates that the Complainant is the owner of the trademark registration for AVIV GROUP in the European Union which predates the registration date of the disputed domain name.

The disputed domain name incorporates the Complainant's trademark AVIV GROUP in its entirety separated by a hyphen "-".

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's registered mark. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names containing the trademark AVIV GROUP.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services.

The Panel finds that the use of the disputed domain name that resolves to a website containing malware, does not correspond to a *bona fide* use, or demonstrable preparations to a *bona fide* use of the disputed domain name under the Policy. Rather, the construction of the disputed domain name itself is such to carry a risk of implied affiliation with the Complainant, which cannot constitute fair use. See section 2.5.1 of the [WIPO Overview 3.0](#).

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark AVIV GROUP is registered by the Complainant in the European Union and has been used since several years. Also, the Complainant registered the domain name <aviv-group.com> in 2018 before the registration of the disputed domain name.

The disputed domain name totally incorporates the Complainant's trademark AVIV-GROUP and also the Complainant's registered domain name. The Respondent has no rights or legitimate interests in the disputed domain name. The construction of the disputed domain name was not by coincidence and creates

confusion for customer, since it actually makes it appear that the disputed domain name belongs to the Complainant.

The Complainant's mark is reputed in its segment. Thus, a domain name that comprises such mark may be already suggestive of the Respondent's bad faith.

There is evidence in the Complaint that the disputed domain name redirects to a website displaying malware, that the Respondent does not make use of it, and that the Respondent is offering the disputed domain name for sale at the price of USD 688, which demonstrates that it was indeed registered with the aim of undue profit.

Moreover, the Respondent has chosen not to respond to the Complainant's allegations. According to the previous UDRP panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), "[t]he failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant's trademark by misleading Internet users to believe that its website belongs to or is associated with the Complainant.

The Panel finds that the Respondent's attempt of taking undue advantage of the Complainant's trademarks as described in paragraph 4(b)(iv) of the Policy has been demonstrated.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and is being used 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, <aviv-group.co> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: August 19, 2022