

Decision for dispute CAC-UDRP-104698

Case number	CAC-UDRP-104698
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Time of filing	2022-07-08 09:04:50
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Domain names	circetgrp.com
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Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	CIRCET
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Valerie Cartozo
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant bases its Complaint on several CIRCET trademark registrations:

- The European trademark CIRCET, no. 018200743, filed on February 24, 2020, registered on August 13, 2020;
- The international trademark CIRCET, no. 1530135 registered since February 26, 2020;
- The international trademark CIRCET, n. 1530128 registered since February 26, 2020;
- The French trademark CIRCET GROUPE, no. 3493566 registered since April 5, 2007.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant CIRCET is a world leading telecom network service provider. The Complainant is present in 14 countries in

Europe, Morocco and America. In 2021, its business generated €2.42 billion in total sales and had 15,350 employees worldwide.

The Complainant owns several trademarks CIRCET, such as the European trademark CIRCET, no. 018200743, filed on February 24, 2020, registered on August 13, 2020; the international trademark CIRCET, no. 1530135 registered since February 26, 2020; the international trademark CIRCET, n. 1530128 registered since February 26, 2020; the French trademark CIRCET GROUPE, no. 3493566 registered since April 5, 2007.

Furthermore, the Complainant is the owner of several domain names comprising the term “CIRCET”, such as the domain name <circet.com>, registered since December 6, 1999.

The disputed <circetgrp.com> was registered on January 24, 2022 and it resolves to the Complainant’s official website <https://www.circet.com/>.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

Nevertheless, on August 24, 2022, the Panel was informed about a communication in French received from Ms Valerie Cartozo, identified by the Registrar as the holder of the disputed domain name, beyond all the deadlines within which it was asserted that she does not have a relationship whatsoever with the disputed domain name, no activity on the Internet, that the e-mail address cartozov@gmail.com is not hers, that the indicated address by CAC is her professional address and that she has filed a criminal complaint for theft of identity. No other details or documents were provided, including any criminal complaint.

PARTIES' CONTENTIONS:

COMPLAINANT:

The disputed domain name <circetgrp.com> is confusingly similar to the trademark CIRCET. The addition of the generic term “GRP” (for “GROUP”) and a hyphen is not sufficient to avoid the likelihood of confusion. Moreover, the Complainant asserts that it is well established that the GTLD is viewed as a standard registration requirement and as such is disregarded.

On these facts, the Complainant contends that the disputed domain name <circetgrp.com> is confusingly similar to its prior trademark CIRCET.

Further, the Complainant contends that the Respondent does not have any rights or legitimate interest in the disputed domain name.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name.

The Complainant further contends that the Respondent is not affiliated with nor authorized by the Complainant in any way and that the Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark CIRCET, or apply for registration of the disputed domain name.

Furthermore, the disputed domain name redirects to the Complainant’s official website <https://www.circet.com/>. The Complainant’s contends that the Respondent is not making a bona fide offering of goods or services by means of the disputed domain name, or a legitimate non-commercial or fair use of it.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

Further, the Complainant contends that the disputed domain name has been registered and is being used in bad faith. To this end, the Complainant states that the disputed domain name is confusingly similar to its trademark CIRCET.

The Complainant mentions that, the Respondent has registered the disputed domain name after the registration of the trademark CIRCET by the Complainant. The Complainant asserts that the term "CIRCET" has no meaning, except in relation to the Complainant.

Consequently, given the distinctiveness of the Complainant's trademark and its reputation, it is reasonable to infer in the Complainant's view that the Respondent has registered and used the domain name with full knowledge of the Complainant's trademark.

Finally, the Complainant asserts that the disputed domain name redirects to the Complainant's website <https://www.circet.com/>. Thus, the Complainant contends that the Respondent has knowledge of the Complainant's rights prior to the registration of the disputed domain name, which is a hallmark of bad faith. Consequently, the Complainant contends that the disputed domain name has been registered by the Respondent in an effort to take advantage of the good reputation Complainant had built up in its CIRCET trademarks, with the sole aim to create a likelihood of confusion with the Complainant's trademarks and domain names.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

Pursuant to paragraph 11 of the UDRP Rules, unless otherwise agreed by the parties, the default language of the proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise. In this case the language of the registration agreement is French as per the Registrar Verification response concerning the disputed domain name as of 04.07.2022 from the case file.

The Complaint was filed in English, the change of language was confirmed by such at the request of CAC and moreover, at the Panel's request, the Complainant has reconfirmed the change of language from French into English as the disputed domain name redirects to a website in English (See <http://circetgrp.com>), and therefore., in the Complainant's view, unless otherwise specified by the Respondent, such affirms that the holder has knowledge of the English language.

On August 24, 2022, the Panel was informed about a communication in French received from Ms Valerie Cartozo, identified by

the Registrar as the holder of the disputed domain name, beyond all the deadlines within which it was asserted that she does not have a relationship whatsoever with the disputed domain name, no activity on the Internet, that the e-mail address cartozov@gmail.com is not hers, that the indicated address by CAC is her professional address and that she has filed a criminal complaint for theft of identity. No other details or documents were provided, including any criminal complaint. From this correspondence, it appears that the Complaint sent by CAC in English language was understood.

Therefore, the Panel agrees with the change of language mainly considering that the disputed domain name redirects to a website in English.

PRINCIPAL REASONS FOR THE DECISION

I. Confusing Similarity

The Panel finds that the disputed domain name incorporates the Complainant's earlier CIRCET trademarks, that the addition of the term "GRP", which could come from the generic term GROUP is not sufficient to escape the finding that the domain name is confusingly similar to the trademarks CIRCET and that, according to other UDRP panels, "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP" (WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin).

Moreover, the extension ".com" is not to be taken into consideration when examining the similarity between the Complainant's trademarks and the disputed domain name (WIPO Case No. D2005-0016, Accor v. Noldc Inc.). The mere adjunction of a gTLD such as ".com" is irrelevant as it is well established that the generic Top Level Domain is insufficient to avoid a finding of confusing similarity (WIPO Case No. 2013-0820, L'Oréal v. Tina Smith, WIPO Case No. D2008-0820 Titoni AG v. Runxin Wang and WIPO Case No. D2009-0877, Alstom v. Itete Peru S.A.).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

II. Lack of Respondent's rights or legitimate interests

The Complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of proof shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Based on the available evidence, the Respondent is not a licensee of, an affiliate of, nor has any kind of relationship with, the Complainant, which has several CIRCET registered trademarks and at least a domain name which incorporates the CIRCET name. The Complainant has never authorised the Respondent to make use of its trademarks, nor of a confusingly similar trademark in the disputed domain name.

Also, the Respondent is not identified in the Whois database as the disputed domain name.

Furthermore, the disputed domain name redirects to the Complainant's official website <https://www.circet.com/>.

The Panel notes that the Respondent had an opportunity to comment on the Complainant's allegations by filing a Response, which the Respondent failed to do in the given deadline.

Nevertheless, on August 24, 2022, the Panel was informed about a communication in French received from Ms Valerie Cartozo, identified by the Registrar as the holder of the disputed domain name, communication received beyond all the deadlines, within which it was asserted that she does not have a relationship whatsoever with the disputed domain name, no activity on the Internet, that the e-mail address cartozov@gmail.com is not hers, that the indicated address by CAC is her professional address and that she has filed a criminal complaint for theft of identity. No other details or documents were provided, including any criminal complaint.

Thus, considering all the above, the Panel is satisfied that the Complainant has at least established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

III. Bad Faith

Based on the filed evidences, the Complainant CIRCET is a world leading telecom network service provider. The Complainant is present in 14 countries in Europe, Morocco and America. In 2021, its business generated €2.42 billion in total sales and had 15,350 employees worldwide. The Complainant has several CIRCET registered trademarks and at least a domain name which incorporates the CIRCET name. Therefore, the Panel concludes that at the time of registration of the disputed domain name, the Respondent was well aware of the Complainant's trademark and has intentionally registered one in order to benefit from the reputation of the Complainant's trademark.

In the present case, the following factors should be considered:

- (i) the Complainant's trademark, which is an earlier right, is a distinctive one;
- (ii) the Respondent failed to submit any response in the given deadline and has not provided any evidence of actual or contemplated good faith use of the disputed domain name. Moreover, on August 24, 2022, the Panel was informed about a communication in French received from Ms Valerie Cartozo, identified by the Registrar as the holder of the disputed domain name, communication received beyond all the deadlines, within which it was asserted that she does not have a relationship whatsoever with the disputed domain name, no activity on the Internet, that the e-mail address cartozov@gmail.com is not hers, that the indicated address by CAC is her professional address and that she has filed a criminal complaint for theft of identity. No other details or documents were provided, including any criminal complaint. In the Panels' view, considering this communication received by CAC, concealing of identity or use under false contact details might be considered as further evidence of bad faith of the Respondent;
- (iii) the Respondent registered the disputed domain name containing in its entirety a distinctive trademark. The term "CIRCET" has no meaning, except in relation to the Complainant;
- (iv) the Respondent has no business relationship with the Complainant, nor was ever authorised to use a domain name similar to the Complainant's trademark;
- (v) the disputed domain name redirects to the Complainant's website <https://www.circet.com/>.

In light of the foregoing, the Panel concludes that the Respondent has registered and has been using the disputed domain name in bad faith. Thus, also the third and last condition under the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **CIRCETGRP.COM**: Transferred

PANELLISTS

Name	Delia-Mihaela Belciu
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2022.08.24

DATE OF PANEL DECISION 2022-08-24

Publish the Decision