

Decision for dispute CAC-UDRP-105653

Case number	CAC-UDRP-105653
-------------	-----------------

Time of filing	2023-07-25 08:47:59
----------------	---------------------

Domain names	autodistribution.pro
--------------	----------------------

Case administrator

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

Complainant

Organization	AUTODISTRIBUTION
--------------	------------------

Complainant representative

Organization	NAMESHIELD S.A.S.
--------------	-------------------

Respondent

Name	Saoudi Causha
------	---------------

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

Complainant states, and provides relevant evidence, that it is the owner of “several” trademark registrations for AUTODISTRIBUTION, including French Reg. No. 1,554,818 (registered October 11, 1989); and Int’l Reg. Nos. 571,283 (registered December 19, 1990) and 1,179,674 (registered June 19, 2013) (the “AUTODISTRIBUTION Trademark”).

FACTUAL BACKGROUND

Complainant states that it is “a member of AD International, belongs to the Autodis Groupe, leader in the independent distribution of spare parts for light and heavy vehicles in Western Europe”; that, in France, it “employs almost 5,500 people, with more than 240 referenced suppliers for 350 equipment brands and more than 1 million references in stock”; and that it “has two main activities”: “distribution of spare parts, paints, tires and equipment” and “[g]arage services, and multi-brand repairs.”

The Disputed Domain Name was created on July 15, 2023, and is being used in connection with a website that, as described by Complainant and as shown in screenshots provided by Complainant, “resolves to a login page copying the Complainant’s official customer access.”

PARTIES CONTENTIONS

Complainant contends, in relevant part, as follows:

Paragraph 4(a)(i): Complainant states that the Disputed Domain Name is confusingly similar to the AUTODISTRIBUTION Trademark because the Disputed Domain Name “includes [the AUTODISTRIBUTION Trademark] in its entirety, without any addition or deletion” and “the addition of the New GTLD ‘.PRO’ does not change the overall impression of the designation as being connected to Complainant’s trademark.”

Paragraph 4(a)(ii): Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, “Respondent is not identified in the Whois database as the disputed domain name”; “Respondent is not known by the Complainant”; “Respondent is not affiliated with nor authorized by the Complainant in any way”; “Complainant does not carry out any activity for, nor has any business with the Respondent”; “[n]either license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark AUTODISTRIBUTION®, or apply for registration of the disputed domain name”; and the Disputed Domain Name “resolves to a login page copying the Complainant’s official customer access,” which “could be used in order to collect personal information of the Complainant’s clients.”

Paragraph 4(a)(iii): Complainant states that the Disputed Domain Name was registered and is being used in bad faith because, inter alia, “Respondent has registered the disputed domain name several years after the registration of the trademark AUTODISTRIBUTION® by the Complainant, which has established a strong reputation while using this trademark”; “Complainant is well known, AUTODISTRIBUTION is the leader in the sale of auto parts and employs almost 5,500 people, with more than 240 referenced suppliers for 350 equipment brands and more than 1 million references in stock”; and the Disputed Domain Name “resolves to a login page copying the Complainant’s official customer access,” which means that “the Respondent can collect personal information through this website, namely passwords.”

No administratively compliant response has been filed.

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 UDRP).

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 UDRP).

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 UDRP).

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.

PRINCIPAL REASONS FOR THE DECISION

Identical or Confusingly Similar: Paragraph 4(a)(i):

Based upon the trademark registrations cited by Complainant, it is apparent that Complainant has rights in and to the AUTODISTRIBUTION Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the AUTODISTRIBUTION Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., “autodistribution”) because “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.” WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 1.11.1.

Here, the Disputed Domain Name contains the AUTODISTRIBUTION Trademark (and only the AUTODISTRIBUTION Trademark) in its entirety. As set forth in section 1.7 of WIPO Overview 3.0: “in cases where a domain name incorporates the entirety of a trademark,... the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.”

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because, inter alia, “Respondent is not identified in the Whois database as the disputed domain name”; “Respondent is not known by the Complainant”; “Respondent is not affiliated with nor authorized by the Complainant in any way”; “Complainant does not carry out any activity for, nor has any business with the Respondent”; “[n]either license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark AUTODISTRIBUTION®, or apply for registration of the disputed domain name”; and the Disputed Domain Name “resolves to a login page copying the Complainant’s official customer access,” which “could be used in order to collect personal information of the Complainant’s clients.”

WIPO Overview 3.0, section 2.1, states: “While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the UDRP.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

Whether a domain name is registered and used in bad faith for purposes of the UDRP may be determined by evaluating four (non-exhaustive) factors set forth in paragraph 4(b) of the UDRP: (i) circumstances indicating that the registrant has registered or the registrant has 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 the registrant’s documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the registrant’s website or location or of a product or service on the registrant’s website or location.

Here, given the similarities between the website associated with the Disputed Domain Name and Complainant’s own website – including use of the same photo, logo and form – it is apparent that Respondent’s use of the Disputed Domain Name creates a likelihood of confusion as set forth in paragraph 4(b)(iv) of the UDRP. Such similarities “generally suggest[] that the respondent had somehow targeted the complainant” and, therefore, is evidence of bad faith. WIPO Overview 3.0, section 3.2.1. See also, e.g., *Cantor Fitzgerald Securities, Cantor Index Limited v. Cantor Index*, WIPO Case No. D2010-0807 (finding bad faith where “Respondent copied text, logos and other elements from Complainant’s website”).

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **autodistribution.pro**: Transferred

PANELLISTS

Name	Douglas Isenberg
------	------------------

DATE OF PANEL DECISION 2023-08-22

Publish the Decision