

ADMINISTRATIVE PANEL DECISION

Europcar International v. Daemon Dreem

Case No. D2023-1585

1. The Parties

The Complainant is Europcar International, France, represented by Taylor Wessing LLP, United Kingdom ("U.K.").

The Respondent is Daemon Dreem, U.K.

2. The Domain Name and Registrar

The disputed domain name <europcar-tenerife.com> is registered with Hostinger, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 12, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on April 13, 2023, 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 (Entity name not publicly available) and contact information in the Complaint.

The Center sent an email communication to the Complainant on April 13, 2023 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 April 18, 2023.

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 April 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 10, 2023.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on May 16, 2023. 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 part of the Europcar group of companies which specialises in car rental and mobility services. The Europcar Group began operations under the Europcar brand in France in 1949, and now operates across a network of 170 countries worldwide with approximately 200 airport locations in Europe and 600 around the world.

The Complainant is the owner of several trademarks for EUROPCAR (“EUROPCAR trademark”), including:

- Spanish Trademark Registration EUROPCAR No. N0218450, registered on July 24, 1998;
- European Union Trademark Registration EUROPCAR (combined) No. 015028525, registered on May 13, 2016;
- U.K. Trademark Registration EUROPCAR No. UK00003274205, registered on March 2, 2018;
- United States of America Trademark Registration EUROPCAR No. 73039110, registered on May 24, 1977; and
- International Registration EUROPCAR (combined) No. 708414, registered on January 8, 1999 for several jurisdictions, including: Bulgaria, Germany, Egypt, Spain, and Viet Nam.

The Complainant is also owner of numerous domain names including the EUROPCAR trademark, *inter alia* the domain names <europcar.com>, <europcar.abudhabi.com>, <europcar-biarritz.fr> and <europcar.amsterdam>.

The disputed domain name was registered on September 15, 2022. The Complainant has provided evidence showing that it redirected to the domain <carzrent.com>, under which offers from a car rental company appeared. Currently the disputed domain resolves to an inactive website.

5. Parties’ Contentions

A. Complainant

On the first element of the Policy, the Complainant claims that the disputed domain name is confusingly similar to the Complainant’s EUROPCAR trademark. The disputed domain name includes the entire EUROPCAR trademark, with only the addition of the word “tenerife” and the generic Top-Level Domain (“gTLD”) “.com”. The distinctive element of the disputed domain name is “europcar” and the common or generic word “tenerife” should be disregarded when comparing the disputed domain name with the EUROPCAR trademark. The additional elements do not distinguish the disputed domain name from the EUROPCAR trademark.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not affiliated with the Complainant in any way and has not been authorized by the Complainant to use its EUROPCAR trademark. Based on all available information, the Respondent did not demonstrate any legitimate noncommercial or fair use of the disputed domain name. Further, the Complainant has found no evidence that the Respondent has been commonly known by the disputed domain name or by the term “europcar”.

On the third element of the Policy, the Complainant asserts that the Respondent registered and used the disputed domain name in bad faith. The Respondent's bad faith registration and use of the disputed domain name are established by the fact that the disputed domain redirected to a domain, under which offers from a car rental company appeared. It is more than likely that the Respondent registered the disputed domain name in bad faith, in order to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's EUROPCAR trademark as to the source, sponsorship, affiliation or endorsement of the website, or of a service on the website.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

It has been a consensus view in previous UDRP decisions that a respondent's default (*i.e.*, failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

- (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 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 Complainant, under the first requirement of paragraph 4(a)(i) of the Policy, needs to establish that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which it has rights.

The Complainant is registered as the owner of several trademarks containing EUROPCAR. Suitable evidence was submitted. Consequently, the Panel finds that the Complainant has proven that it has rights in the EUROPCAR trademark.

The disputed domain name contains the EUROPCAR trademark entirely with the addition of the geographic term "tenerife" and a hyphen as well as the gTLD ".com". Section 1.8 of [WIPO Overview 3.0](#) states: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements." Further, the addition of a hyphen does not prevent a finding of identity or confusing similarity (see *The Channel Tunnel Group Ltd. v John Powell*, WIPO Case No. [D2000-0038](#)). Moreover, section 1.11.1 of [WIPO Overview 3.0](#) states: "The applicable 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". The gTLD ".com" will therefore be discounted in the Panel's consideration of confusing similarity.

The Panel finds that the relevant trademark EUROPCAR within the disputed domain name is recognizable, so that the geographic term “tenerife” and hyphen do not prevent a finding of confusing similarity.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks, and that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The second element the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Regarding the second element of the Policy, section 2.1 of [WIPO Overview 3.0](#) states, “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”. In this case, the Respondent did not reply to the Complainant’s contentions.

According to the Complaint, the Complainant has not authorized the Respondent to use the EUROPCAR trademark, the Respondent is not commonly known by the disputed domain name, and the Respondent has not used the disputed domain name for a legitimate noncommercial or fair use, nor used it in connection with a *bona fide* offering of goods or services. Further, the Respondent has not attempted to justify why the disputed domain name was registered. Moreover, the Panel finds that the composition of the disputed domain name, adding the geographic term “tenerife” to the Complainants’ EUROPCAR trademark, coupled with the use of the disputed domain name redirected to a website under which offers from a car rental company appeared, affirms the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant, as to the origin or affiliation of the website at the disputed domain name.

Accordingly, the Panel finds that the Complainant has made a *prima facie* showing of the Respondent’s lack of rights or legitimate interests in respect of the disputed domain name, which has not been rebutted by the Respondent. The Panel therefore finds that the Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that the Complainant demonstrate that the Respondent registered and is using the disputed domain name in bad faith. Section 3.1 of [WIPO Overview 3.0](#) states, “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”. Section 3.2.2 of the [WIPO Overview 3.0](#) reads: “Noting the near instantaneous and global reach of the Internet and search engines and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known that its registration would be identical or confusingly similar to a complainant’s mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent’s claim not to have been aware of the complainant’s mark.”

Considering the reputation and public presence of the Complainant, it is unlikely that the Respondent had no knowledge of the EUROPCAR trademark. The incorporation of the EUROPCAR trademark within the disputed domain name as well as the fact that the disputed domain redirected to a website under which offers from a car rental company appeared, demonstrates the Respondent’s actual awareness of and intent to target the Complainant. In light of the lack of any rights to or legitimate interests in the disputed domain

name by the Respondent and in the absence of any conceivable good faith use, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract Internet users to its website or affect the commercial activities of the Complainant by creating a likelihood of confusion with the Complainant's trademarks. This is particularly confirmed with the inclusion of the geographical term "tenerife" within the disputed domain name, as it is rather likely that the Respondent attempted to attract Internet users who are searching for an offer from a car rental company in this region.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) of the Policy.

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, <europcar-tenerife.com>, be transferred to the Complainant.

/Christian Gassauer-Fleissner/

Christian Gassauer-Fleissner

Sole Panelist

Date: May 30, 2023