

ADMINISTRATIVE PANEL DECISION

Arrise Limited v. Oklah Homsa

Case No. D2024-0641

1. The Parties

The Complainant is Arrise Limited, United Kingdom, represented by Wiley, Rein LLP, United States of America.

The Respondent is Oklah Homsa, Bulgaria.

2. The Domain Name and Registrar

The disputed domain name <arrise.org> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 12, 2024. On February 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 13, 2024, 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 (WITHHELD FOR PRIVACY EHF) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 14, 2024 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 February 16, 2024.

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 February 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 19, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on March 26, 2024. 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, Arrise Limited, is a company established under the laws of the British Virgin Islands and operating in Gibraltar. The Complainant services Pragmatic Play, a leading provider of mobile and desktop casino games for online gaming industry.

The Complainant holds trademark registration for or incorporating ARRISE, such as the following:

- the European Union trademark registration number 018926949 for ARRISE (word), filed on September 19, 2023, and registered on January 20, 2024, for goods and services in International classes 9, 35, 36, 41 and 42; and

- the European Union trademark registration number 018926982 for ARRISE (mark with device), filed on September 19, 2023, and registered on January 20, 2024, for goods and services in International classes 9, 35, 36, 41 and 42.

The Complainant owns the domain name <arrise.com>, registered since August 23, 2000 and <arrisecareers.com> registered since July 19, 2023.

The disputed domain name <arrise.org> was registered on December 8, 2023, and, at the time of filing the Complaint, it did not resolve to an active website.

According to Annex 14 to the Complaint, the disputed domain name was used in connection with email addresses from which, purported Complainant's employees were sending emails to customers of the Complainant, presenting themselves as the Complainant's Billing & Collections team/representatives and asking recipients to pay invoices, purportedly issued by the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant alleges that it has been conducting business under ARRISE mark before the disputed domain name was registered and, that the Complainant posted on social media accounts since August 2023, and holds common law rights in the mark for over six months before the marks; the disputed domain name is identical to its coined trademark; the Respondent has no rights or legitimate interests in respect to the disputed domain name; the Respondent is using the disputed domain name in bad faith, posing as the Complainant's employee and sending emails to the Complainant's customers seeking transfer of bank and payment information intended for the Complainant to a fraudulent account assumingly owned by the Respondent; the Respondent concealed its identity by using a privacy shield and further on, the identity of the unmasked contact information that the Respondent provided in the Registrar is very likely false.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities 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 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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

According to the evidence provided in the Complaint, the Respondent has used the disputed domain name in connection with email addresses, seeking transfer of bank and payment information from third parties, customers of the Complainant, falsely pretending to be representatives of the Complainant. UDRP panels have held that the use of a domain name for illegal activity (such as phishing, impersonation/passing off or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark made available online, including on the social pages since at least August 2023. Further, the use of the disputed domain name in relation to phishing emails, impersonating the Complainant's employees, further supports such conclusion.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

At the time of filing the Complaint, the disputed domain name directs towards an error page. However, as evidenced by the Complainant, the disputed domain name was used in relation to phishing emails. Panels have held that the use of a domain name for illegal activity (here, sending email, phishing, identity theft, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Panel finds that the Complainant has established the third element 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 <arrise.org> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: April 9, 2024