

ADMINISTRATIVE PANEL DECISION

Qatar Airways Group (Q.C.S.C.) v. Vadym Roters
Case No. DAI2024-0004

1. The Parties

The Complainant is Qatar Airways Group (Q.C.S.C.), Qatar, represented by 101domain.com, United States of America.

The Respondent is Vadym Roters, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <qatarairways.ai> is registered with GoDaddy.com, LLC., (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 16, 2024. On January 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 25, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 26, 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 January 29, 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 January 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2024. The Respondent sent informal email communications to the Center on February 23 and March 27, 2024. The Complainant requested a suspension of the proceedings on February

27, 2024. On February 28, 2024, the Center notified the Parties of the 30-day suspension. On March 28, 2024, the Complainant informed the Center that the parties were unable to reach a resolution through a settlement and thus asked to resume the proceedings. On April 3, 2024, the Center notified the Parties of the reinstitution of the proceedings and that the Center would proceed with Panel appointment.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on April 9, 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 in this administrative proceeding is Qatar Airways Group, a company incorporated in the United States. The Complainant has operated in the travel and airline industry since 1994, and provides flights to numerous destinations worldwide through their primary website, <qatarairways.com>.

The Complainant is, inter alia, the owner of:

- European Union Trade Mark QATAR AIRWAYS (device), registration number 012118865, registered on January 15, 2014;
- United States Trademark QATAR AIRWAYS (device), registration number 4,698,850, registered on March 10, 2015;
- Australian Trademark QATAR AIRWAYS (device), registration number 1037862, registered on January 14, 2005.

The Complainant is also the owner of numerous domain names containing and/or corresponding to the Complainant's trademark, amongst them the main domain name <qatarairways.com>, registered on May 22, 1997.

The Complainant provides evidence that it first sought to settle this matter amicably through a cease-and-desist letter sent to the privacy service as indicated in the Whois database as the registrant for the disputed domain name on November 17, 2023, to which it received no answer.

The disputed domain name was registered on February 8, 2023.

The disputed domain name directs to a page where the message "parked free, courtesy of GoDaddy.com" is displayed.

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 contends that the disputed domain name is identical or at least confusingly similar to the Complainant's trademark, that the Respondent has no rights or legitimate interests in the disputed domain name, and particularly that the Respondent registered the disputed domain name with the intention of creating confusion with the Complainant's trademark and to mislead the Complainant's customers into believing that the Respondent's website is associated with the Complainant.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions, but sent a first short informal email on February 23, 2024, affirming: "I will contact with [sic] qatarairways and will negotiate with them", and a second email on March 27, 2024, offering to transfer the disputed domain name to the Complainant for USD 7,200.

6. Discussion and Findings

6.1. Procedural Issue

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. As the Respondent's mailing address disclosed by the Registrar is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider whether the proceeding should continue.

The Panel notes that the records show that the Center's Written Notice could not be delivered to the address disclosed by the Registrar in its verification. However, the Panel notes that the Center's Notification of Complaint email was delivered to the Respondent's email address provided by the Registrar. Moreover, the Respondent was contacted by the Center through the Registrar's whols contact form. In addition, the Panel notes that the Respondent responded via email to the Center's notification of the Respondent's default on February 23, 2024, and that afterwards the proceedings was suspended for a month for the purposes of a possible settlement. Therefore, the Panel finds that the Respondent has been given a fair opportunity to present its case, and so that the administrative proceeding takes place with due expedition, the Panel will proceed to a Decision accordingly.

6.2. Substantive Issues

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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

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.

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 Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s trademark.

In the present case, the Panel notes that the Respondent’s failure to respond to the Complainant’s cease-and-desist letter is further inference of bad faith use and registration of the disputed domain name.

The disputed domain name was registered many years after the Complainant’s trademark was registered. In addition, owing to the substantial presence established worldwide and on the Internet by the Complainant, and considering the composition of the disputed domain name, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant, or of the Complainant’s trademark, when registering the disputed domain name.

Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant’s earlier rights to the QATAR AIRWAYS trademark.

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.

In addition, the Respondent’s failure to contest the Complainant’s assertions made in this proceeding regarding its bad faith in registering and using the disputed domain name, combined with its offer to sell the disputed domain name for USD 7,200 (namely an amount that far exceeds the normal costs of registration of a domain

name), and its lack of any legitimate rights to the disputed domain name, can be seen as further inference of bad faith use and registration of the disputed domain name.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, the composition of the disputed domain name, the Respondent’s attempt to sell the disputed domain name to the Complainant for an amount far in excess of the Respondent’s documented out-of-pocket costs directly related to the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraph 4(i) of the Policy and paragraph 15 of the Rules, the Panel orders that the disputed domain name <qatarairways.ai> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: April 11, 2024