

## **ADMINISTRATIVE PANEL DECISION**

Federation Francaise De Tennis (FFT) v. Domain Admin, Whois protection, this company does not own this domain name s.r.o. / Hulmiho Ukolen, Poste restante

Case No. D2022-1855

### **1. The Parties**

Complainant is Federation Francaise De Tennis (FFT), France, represented by Nameshield, France.

Respondent is Domain Admin, Whois protection, this company does not own this domain name s.r.o., Czech Republic / Hulmiho Ukolen, Poste restante, Finland.

### **2. The Domain Name and Registrar**

The disputed domain name <rollandgarros.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 23, 2022. On May 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 24, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on May 25, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on May 25, 2022.

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 Respondent of the Complaint, and the proceedings commenced on May 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 16, 2022. Respondent did not submit any response. Accordingly, the Center

notified Respondent's default on June 17, 2022.

The Center appointed Scott R. Austin as the sole panelist in this matter on June 23, 2022. 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**

Without contest by Respondent, Complainant asserts in its Complaint as amended, and its Annexes attached provide evidence sufficient to support that:

Founded in 1920, Complainant Federation Francaise de Tennis promotes and develops tennis in France and organizes major tournaments such as the International of France at Roland Garros also called the "French Open", which Complainant operates under the trademark ROLAND GARROS (the "ROLAND GARROS Mark"). In 2021, Complainant counted over 947,000 licensees and the tournament operated under the ROLAND GARROS Mark is the biggest tournament of the tennis season on clay and the only Grand Slam still competing on that surface.

Complainant owns numerous registrations protecting the ROLAND GARROS Mark, including:

International Trademark Registration No. 459517, ROLAND GARROS registered on April 1, 1981.

Complainant has also registered numerous domain names that incorporate the ROLAND GARROS Mark used to access the Official Roland Garros Website, including <roland-garros.com> registered on April 22, 1997, and <rolandgarros.com> registered on April 21, 1999.

The disputed domain name was registered on October 17, 2020, and resolves to a parking page with pay-per-click ("PPC") commercial links related to Complainant and its activities as well as being offered for sale for USD 3,750.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that the disputed domain name is identical or confusingly similar to Complainant's trademark, that Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

#### **6. Discussion and Findings**

There are no exceptional circumstances within paragraph 5(e) of the Rules to prevent this Panel from determining the present dispute based upon the Complaint (as amended), notwithstanding the failure of any person to lodge a substantive formal Response in compliance with the Rules. Under paragraph 14 of the Rules, where a party does not comply with any provision of the Rules, the Panel shall "draw such inferences therefrom as it considers appropriate".

Where no substantive Response is filed, however, Complainant must still make out its case in all respects under paragraph 4(a) of the Policy. To succeed, Complainant must demonstrate that all the elements listed

in paragraph 4(a) of the Policy have been satisfied.

Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights and has, therefore, met its burden under paragraph 4(a)(i) of the Policy; and

Complainant has, to the satisfaction of the Panel, shown that Respondent has no rights or legitimate interests in respect of the disputed domain name and has, therefore, met its burden under paragraph 4(a)(ii) of the Policy; and

Complainant has, to the satisfaction of the Panel, shown that the disputed domain name has been registered and is being used in bad faith and has, therefore, met its burden under paragraph 4(a)(iii) of the Policy.

The Panel will address its findings on each of these requirements in more detail below.

The standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.2.

### **A. Identical or Confusingly Similar**

Ownership of a nationally registered trademark constitutes *prima facie* evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant claims trademark rights in the ROLAND GARROS Mark for its tennis related goods and services dating back to 1981. Sufficient evidence has been submitted in the form of electronic copies of valid and subsisting international trademark registration documents in the name of Complainant and therefore, Complainant has demonstrated it has rights in the ROLAND GARROS Mark. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#).

With Complainant’s rights in the ROLAND GARROS Mark established, the remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant’s ROLAND GARROS Mark. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a “reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name”. [WIPO Overview 3.0](#), section 1.7.

Prior UDRP panels have held the fact that a domain name which wholly incorporates a complainant’s registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy despite the addition of other words to such marks. [WIPO Overview 3.0](#), section 1.8 (“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”) see also *Wal-Mart Stores, Inc. v. MacLeod d/b/a/ For Sale*, WIPO Case No. [D2000-0662](#).

The disputed domain name incorporates Complainant’s ROLAND GARROS Mark in its entirety with one minor distinction, the insertion of a second occurrence of the letter “l” in the Mark, an obvious misspelling. This added letter does not significantly affect the appearance or pronunciation of the disputed domain name. The disputed domain name, therefore, is essentially identical to Complainant’s registered ROLAND GARROS Mark inserting only the second letter “l”. This is thus a clear case of “typosquatting”, *i.e.*, the disputed domain name contains an obvious misspelling of Complainant’s trademark. See [WIPO Overview 3.0](#), section 1.9 (common, obvious, or intentional misspelling of a trademark considered by panels to be confusingly similar for purposes of the first element). See also, *Electronic Arts Inc. v. John Zuccarini*, WIPO Case No. [D2003-0141](#) (<simscity.com> “the domain name differs from [SIMCITY] trademark in only one letter; this small difference establishes the confusingly similarity with [the complainant’s trademark]”). The addition of the Top-Level Domain (“TLD”) “.com” is irrelevant in determining whether the disputed domain

name is confusingly similar. See, *Research in Motion Limited v. thamer Ahmed Alfarshooti*, WIPO Case No. [D2012-1146](#); [WIPO Overview 3.0](#), section 1.11.

Based on the above, this Panel finds that the added letter “I” does not prevent a finding of confusing similarity between the disputed domain name and Complainant’s ROLAND GARROS Mark. Complainant’s well-known ROLAND GARROS Mark is fully recognizable as it is incorporated in its entirety into the disputed domain name. Accordingly, the Panel finds the disputed domain name confusingly similar to the ROLAND GARROS Mark in which Complainant has rights and Complainant has thus satisfied its burden under Paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

Under the second element of the Policy, the complainant has to make out a *prima facie* case that the respondent does not have rights to or legitimate interests in the disputed domain name, and if successful the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights to or legitimate interests in the disputed domain name. If the respondent fails to come forward with such evidence, a complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1. See also *The American Automobile Association, Inc. v. Privacy--Protect.org et al.*, WIPO Case No. [D2011-2069](#).

Paragraph 4(a)(ii) of the Policy also directs an examination of the facts to determine whether a respondent has rights or legitimate interests in a domain name. Paragraph 4(c) lists a number of ways in which a respondent may demonstrate that it does have such rights or legitimate interests.

The first example, under paragraph 4(c)(i), is where “before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services”.

Here, the annexes to the Complaint show that the disputed domain name points to a parking page with PPC commercial links related to Complainant and its activities. Prior UDRP panels have held that the operation of a PPC website at a confusingly similar domain name does not represent a *bona fide* offering of goods or services or a legitimate noncommercial or fair use, regardless of whether or not the links resolve to competing or unrelated websites or if the respondent is itself commercially profiting from the click-through fees. See [WIPO Overview 3.0](#), section 2.9; see also *Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe*, WIPO Case No. [D2007-1695](#). Applying the foregoing decision to these facts this Panel finds the disputed domain name is not being used in connection with a *bona fide* offering of goods or services sufficient to demonstrate Respondent has any rights or legitimate interests in the disputed domain name under the factors specified by paragraph 4(c)(i) of the Policy.

The second example, under paragraph 4(c)(ii), is a scenario in which a respondent is commonly known by the domain name. Complainant states that Respondent is not related in any way with Complainant, does not carry out any activity for, nor have any business with Respondent. Neither has Complainant granted any license or authorization to Respondent to make any use of Complainant’s ROLAND GARROS Mark or apply for registration of the disputed domain name. Complainant has never authorized Respondent to use the ROLAND GARROS Mark, or any marks confusingly similar thereto for any purpose, including as a domain name. Prior UDRP panels have found a lack of rights or legitimate interests under the second element of the Policy based on such circumstances. See, e.g., *Charles Schwab & Co., Inc. v. Josh Decker d/b/a I GOT YOUR TIX*, WIPO Case No. [D2005-0179](#); *Guerlain S.A. v. H I Investments*, WIPO Case No. [D2000-0494](#).

Complainant also shows that Respondent is not commonly known by the disputed domain name because the original Respondent listed in the Whois record submitted with the initial Complaint displayed “Whois protection, this company does not own this domain name s.r.o.” of the Czech Republic. The Registrar identified the underlying registrant in its verification process, “Hulmiho Ukolen, Poste restante” of Finland, who has been substituted in the amended Complaint as Respondent. Neither bears any resemblance to the disputed domain name whatsoever. Thus, there is no evidence in this case to suggest that Respondent is

commonly known by the disputed domain name, that it is licensed or otherwise authorized to use Complainant's trademark, or that it has acquired any trademark rights relevant thereto. As such, the Panel finds this sub-section of the Policy is of no help to Respondent and the facts presented here support a lack of rights or legitimate interests in the disputed domain name. See *Expedia, Inc. v. Dot Liban, Hanna El Hinn*, WIPO Case No. [D2002-0433](#).

Complainant also contends Respondent's online offer to sell the disputed domain name evinces Respondent's lack of rights or legitimate interests in the disputed domain name. The Panel notes that evidence submitted in the Annexes to the Complaint shows a website prominently featuring the disputed domain name offered for sale for USD 3,750 by Respondent. The Panel finds that Respondent's general solicitation to sell the disputed domain name provides further evidence of Respondent's lack of rights or legitimate interests in the disputed domain name.

In light of the above, and with no Response or other submission in this case to rebut Complainant's assertions and evidence, the Panel finds that the facts of this case demonstrate that Respondent has no rights or legitimate interests in the disputed domain name. Complainant has successfully met its burden under paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Finally, Complainant must prove, by a preponderance of the evidence, that the disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) of the Policy. See, e.g., *Hallmark Licensing, LLC v. EWebMall, Inc.*, WIPO Case No. [D2015-2202](#).

Paragraph 4(b) of the Policy sets out a non-exhaustive list of circumstances that point to bad faith conduct on the part of a respondent. The panel may, however, consider the totality of the circumstances when analyzing bad faith under Policy, paragraph 4(a)(iii) and may make a finding of bad faith that is not limited to the enumerated factors in Policy, paragraph 4(b). See *Do the Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

First, Complainant contends and prior UDRP Panels have found that the ROLAND GARROS Mark is a distinctive and well-known trademark. See e.g., *Federation Francaise De Tennis (FFT) v. WhoisGuard Protected, WhoisGuard, Inc. / Md Rubel Hossain*, WIPO Case No. [D2017-1045](#).

Complainant further contends that given its ROLAND GARROS Mark is well-known and the disputed domain name is comprised of an intentional misspelling of the ROLAND GARROS Mark in its entirety, shows both Respondent's actual knowledge of the ROLAND GARROS Mark and widespread recognition, especially in Europe where Respondent is located, and the mark has been in use for decades before Respondent registered the disputed domain name. Prior UDRP panels have found that where, as here, it would be implausible to believe that Respondent selected and was using the disputed domain name for any other purpose than to trade on Complainant's trademark rights and reputation, establishes a fact pattern that repeatedly has been held to constitute bad faith registration and use. See *Houghton Mifflin Co. v. Weathermen, Inc.*, WIPO Case No. [D2001-0211](#); see also *Philip Morris Inc. v. Tsyarkin*, WIPO Case No. [D2002-0946](#).

Given the widespread recognition of Complainant's ROLAND GARROS Mark in Europe, where Respondent is located, and almost 40 years of use of the ROLAND GARROS Mark prior to Respondent's registration of the disputed domain name in 2020, the ultimate effect of any use of the disputed domain name will be to cause confusion with Complainant and therefore, the use and registration of the disputed domain name must be considered to be in bad faith. See *Embratel v. McCarthy*, WIPO Case No. [D2000-0164](#).

Prior UDRP panels have also held that a respondent's selection of a disputed domain name that comprises the complainant's mark in its entirety demonstrates a respondent's actual knowledge to support a finding of bad faith in registering and using the domain. See, e.g., *Lloyds Bank Plc v. Marc Wiese*, WIPO Case No. [D2015-0914](#); see also, *Heineken Brouwerijen B.V. v. Mark Lott*, WIPO Case No. [D2000-1487](#). Moreover,

panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Finally, as noted in 6B. above, the disputed domain name, which Respondent has intentionally made confusingly similar to Complainant's ROLAND GARROS Mark by means typo-squatting, points to a generic PPC website with PPC commercial links in order to generate pay-per-click revenues without Complainant's permission to do so. Prior UDRP Panels have found these facts demonstrate a clear indication that respondent intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with Complainant's ROLAND GARROS Mark as to the source, sponsorship, affiliation or endorsement of respondent's website, and, therefore, evidence of registration and use of the disputed domain name in bad faith under paragraph 4(b)(iv) of the Policy. See *Association des Centres Distributeurs E. Leclerc - A.C.D Lec v. Milen Radumilo* WIPO Case No. [D2017-2003](#).

The Panel finds Complainant's arguments and evidence persuasive and has received no arguments or evidence from Respondent to the contrary. Considering all the circumstances, the Panel concludes that Respondent has registered and used the disputed domain name in bad faith and Complainant has satisfied 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, <rollandgarros.com> be transferred to Complainant.

*/Scott R. Austin/*

**Scott R. Austin**

Sole Panelist

Date: July 7, 2022