

ADMINISTRATIVE PANEL DECISION

Accor v. Daniel Barletta
Case No. D2022-3572

1. The Parties

Complainant is Accor, France, represented by Dreyfus & associés, France.

Respondent is Daniel Barletta, Canada.

2. The Domain Name and Registrar

The disputed domain name <groupeaccorhotels.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 27, 2022. On September 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 27, 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 (Privacy Service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on September 28, 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 September 30, 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 October 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2022. Respondent sent an informal email communication to the Center on October 25, 2022 indicating willingness to transfer the disputed domain name to Complainant, but did not submit a formal response. On October 26, 2022, the Center suspended the proceedings upon Complainant’s request. On December 27, 2022, the proceedings were reinstated as per Complainant’s

request and the Center confirmed that the new Response due date was December 31, 2022. On January 3, 2023, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on January 6, 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

Complainant is an international operator of hotels. It is the proprietor of a number of registrations for its ACCOR and ACCORHOTELS marks, including the following:

- International Trademark No. 480492 for ACCOR (word mark), registered on November 10, 1983 for goods and services in classes 16, 39 and 42;
- International Trademark No. 1103847 for ACCORHOTELS (word mark), registered on December 12, 2011 for services in classes 35, 39 and 43.

Complainant operates its business websites at the domain names <accor.com> and <accorhotels.com>.

The disputed domain name was registered on July 28, 2022. It does not resolve to an active website. The record contains evidence that it previously resolved to a page featuring pay-per-click (PPC) links. The record reflects that Complainant sent a cease-and-desist letter to Respondent dated August 3, 2022. The record does not reflect Respondent's response thereto.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that it was founded in 1967 and today operates more than 5,100 hotels in 110 countries worldwide. The group's hotel chains include Fairmont, Raffles, Swissôtel, Sofitel, Pullman, Novotel, Grand Mercure and Ibis. The disputed domain name is identical to Complainant's ACCOR and ACCORHOTELS marks, with the addition of the generic term "groupe." The ACCOR and ACCORHOTELS marks have been held to be well known or famous by UDRP panels.

Under the second element, Complainant states that Respondent is not affiliated with Complainant in any way and has not been authorized by Complainant to use or register its trademarks ACCOR and ACCORHOTELS or to seek registration of any domain names incorporating the marks. Moreover, Respondent has no prior rights or legitimate interests in the disputed domain name. The disputed domain name is not used in connection with a business. It was used for a site featuring PPC links. Mail exchange (MX) records have been configured for the disputed domain name, leading to a risk of a phishing scheme.

Under the third element, Complainant states that, due to Complainant's renown and reputation worldwide, it is implausible that Respondent was unaware of Complainant. The disputed domain name includes two of Complainant's well-known trademarks, thereby demonstrating Respondent's knowledge of Complainant's rights and its activities. Complainant's trademark rights predate the registration date of the disputed domain name. The disputed domain name redirects to a webpage featuring PPC links related to Complainant's business. Email servers have been configured on the disputed domain name and thus there might be a risk that Respondent is engaged in a phishing scheme using an email address with the disputed domain name.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not provide a formal reply to Complainant's contentions. The record contains an email dated October 25, 2022 in which Respondent states that he was unaware of copyright and expressed willingness to transfer the disputed domain name to Complainant. However, the further communication in the file reflects that Respondent did not reply to Complainant's subsequent request to execute a settlement agreement.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;

(ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint 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".

A. Identical or Confusingly Similar

Complainant has provided evidence establishing that it has trademark rights in the ACCOR and ACCORHOTELS marks through international registrations. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1.

In comparing Complainant's marks with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to these marks, as the ACCOR and ACCORHOTELS marks are clearly recognizable within the disputed domain name. The disputed domain name additionally contains the word "groupe", which means "group" in English that does not prevent a finding of confusing similarity. UDRP panels have consistently held that, 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 [WIPO Overview 3.0](#), sections 1.7 and 1.8.

It is the well-established view of UDRP panels that a generic Top-Level Domain such as ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, respondent's 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; or
- (ii) respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel finds that there is no evidence that Respondent is commonly known by the disputed domain name nor is using the ACCOR or ACCORHOTELS marks with the permission of Complainant. The nature of the disputed domain name, which reflects Complainant's marks in their entirety preceded by the dictionary word "groupe," cannot constitute fair use since it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel therefore finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent, in failing to file a substantive response, has not submitted any evidence or arguments demonstrating such rights or legitimate interests, nor has he rebutted any of Complainant's contentions. There is no evidence that Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish Respondent's rights or legitimate interests therein. Rather, the disputed domain name, which is confusingly similar to Complainant's mark, resolved to a parking page featuring PPC links that compete with or capitalize upon the goodwill and reputation of Complainant's marks. Such use cannot establish rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.9.

Respondent acknowledges that the disputed domain name may be transferred. Therefore, it would appear that currently Respondent has no interest in the disputed domain name.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Pursuant to paragraph 4(b) of the Policy, the Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant's rights in its ACCOR and ACCORHOTELS marks predate the registration of the disputed domain name by several years. The disputed domain name reflects Complainant's marks preceded by the dictionary word "groupe." The disputed domain name is therefore confusingly similar to Complainant's marks and inherently misleading. The Panel finds that, by registering such a domain name, Respondent has attempted to create an association with Complainant's well-established marks.

UDRP panels have consistently held that the use of the disputed domain name to redirect to a PPC website such as the one used by Respondent is clear evidence of bad faith under paragraph 4(b)(iv) of the Policy. The PPC links are related to Complainant's business and indicate Respondent is using the disputed domain name for commercial gain. See, for instance, *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#); *Villeroy & Boch AG v. Mario Pingerna*, WIPO Case No. [D2007-1912](#).

The Panel also notes that Respondent's configuration of email servers in respect of the disputed domain name means that Respondent could potentially use the email addresses hosted by the disputed domain name to confuse Internet users into believing they are dealing with Complainant when they are not.

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) 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 <groupeaccorhotels.com> be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: January 19, 2023