

## **ADMINISTRATIVE PANEL DECISION**

Railteam B.V. v. ARNAUD CHOUKRI

Case No. D2022-4874

### **1. The Parties**

Complainant is Railteam B.V., Netherlands, represented by Scan Avocats AARPI, France.

Respondent is ARNAUD CHOUKRI, United Kingdom.

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

The disputed domain name <railteams.com> (the “Domain Name”) 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 December 20, 2022. On December 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 21, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 Complainant on December 23, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. On December 24 and 28, 2022, the Center received communications from Respondent, expressing its wish to sell the Domain Name. Accordingly, the Center sent a possible settlement email. Complainant did not request for a suspension of the proceedings. Complainant filed an amended Complaint on December 28, 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 January 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2023. On January 4, 2023, the Center received an email from Respondent, expressing its wish to suspend the proceedings. On January 10, 2023, the Center received an email from Complainant, stating that they want the procedure to continue without suspension. Respondent

did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on January 25, 2023.

The Center appointed Marina Perraki as the sole panelist in this matter on January 30, 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 the Dutch company Railteam B.V., composed of eight European railway operators (Deutsche Bahn, SNCF, ÖBB, Eurostar, SBB, SNCB, NS International, and Thalys) whose goal is to promote seamless travel by high-speed rail throughout Europe.

Complainant is the owner of trademark registrations for RAILTEAM, including the French trademark registration for RAILTEAM (word), no 3374388, registered on August 5, 2005, which covers goods and services in international classes 16, 35, and 39.

Complainant is also the owner of domain name registrations for <railteam.com> registered on February 26, 2004, <railteam.fr> registered on December 28, 2005, and <railteam.eu> registered on July 10, 2006.

The Domain Name was registered on April 22, 2020, and leads to a parking page where it is being offered for sale.

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

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

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for the transfer of the Domain Name.

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

Respondent did not formally reply to Complainant's contentions. On December 24, 2022, he sent an email to the Center where he expressed the willingness to sell the Domain Name to Complainant "if the offer is correct". On December 28, 2022, Respondent sent an email to the Center where he argued his rights in the Domain Name, due to the addition of the letter "s" as compared to the Complainant's trademark in the singular.

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

Paragraph 4(a) of the Policy lists the three elements, which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

## A. Identical or Confusingly Similar

Complainant has demonstrated rights through registration and use in the RAILTEAM trademark.

The Panel finds that the Domain Name is confusingly similar to the RAILTEAM trademark.

The Domain Name incorporates Complainant's RAILTEAM mark in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The addition of the final letter "s", denoting plural, in the Domain Name, does not prevent a finding of confusing similarity, as the RAILTEAM trademark remains clearly recognizable (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8).

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Name is confusingly similar to the RAILTEAM mark.

Complainant has established Policy, paragraph 4(a)(i).

## B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to Respondent 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 (as an individual, business, or other organization) 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 concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not formally replied to Complainant's contentions and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per the Complaint, Respondent was not authorized to register the Domain Name.

There is no evidence that Respondent has been commonly known by the Domain Name.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant has demonstrated, the Domain Name resolved to a parking page on which the Domain Name was being offered for sale.

Furthermore, the Domain Name consists entirely of Complainant's trademark RAILTEAM together with the final letter "s" and thus carries a risk of confusion.

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

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

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in bad faith:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith.

Complainant's mark RAILTEAM had been used and registered at the time of the Domain Name registration by Respondent. Therefore the Panel finds it more likely than not that Respondent had Complainant's mark (a combination of terms that creates a unique expression) in mind when registering the Domain Name which is merely a plural version of the former (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#)).

Respondent should have known about Complainant's rights, as such knowledge is readily obtainable through a simple browser search (*Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#); *Compart AG v. Compart.com / Vertical Axis, Inc.*, WIPO Case No. [D2009-0462](#)).

Moreover, Respondent could have searched trademark registry databases and would have found Complainant's prior registration in respect of the RAILTEAM trademark (*Citrix Online LLC v. Ramalinga Reddy Sanikommu Venkata*, WIPO Case No. [D2012-1338](#)).

As regards bad faith use, Complainant demonstrated that the Domain Name was being offered for sale for an amount that likely exceeds the acquisition price paid by Respondent.

Under these circumstances and on this record, the Panel finds that Respondent has registered and is using the Domain Name in bad faith.

Complainant has established Policy paragraph 4(a)(iii).

## 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 Domain Name, <railteams.com>, be transferred to Complainant.

*/Marina Perraki/*

**Marina Perraki**

Sole Panelist

Date: February 13, 2023