

## **ADMINISTRATIVE PANEL DECISION**

Airbus SAS v. Dogan Erdogan  
Case No. D2023-1295

### **1. The Parties**

The Complainant is Airbus SAS, France, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Dogan Erdogan, Türkiye, represented by Yaraş Legal, Türkiye.

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

The disputed domain names <airbusturkey.com> and <airbusturkiye.com> are registered with Aerotek Bilisim Taahut Sanayi Ve Ticaret Ltd Sti. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 24, 2023. On March 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 4, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (GDPR Masked) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 11, 2023, 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 April 17, 2023.

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 April 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 15, 2023. On May 24, 2023, the Center received an email from the Respondent stating its willingness to settle the dispute.

The Center appointed Kaya Köklü as the sole panelist in this matter on May 17, 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**

The Complainant is a corporation with its registered seat in France. It is a widely known supplier of aerospace technology, including commercial aircraft, helicopters and products in the military and space sectors.

The Complainant is the owner of the AIRBUS trademark, which includes the International Trademark Registration No. 1112012 for AIRBUS, registered on June 24, 2011, claiming protection for a large number of goods and services.

The Complainant further owns and operates its main website at <airbus.com> (Annexes 4, 5 and 7).

The Respondent is reportedly an individual located in Türkiye.

Both disputed domain names were registered on July 13, 2014.

At one time, the disputed domain names resolved to websites prominently featuring the Complainant's AIRBUS trademark and official company logo (Annex 3 to the Complaint). The overall design of the respective websites created the (false) impression that they are operated with the Complainant's authorization. Just recently in March 2023, the disputed domain name <airbusturkiye.com> was offered for sale (Annex 3 to the Complaint).

At the time of the decision, both disputed domain names resolve to an index landing page without content anymore.

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

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

The Complainant requests the transfer of the disputed domain names.

The Complainant is of the opinion that the disputed domain names are confusingly similar to its AIRBUS trademark.

It further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

In addition, the Complainant is convinced that the Respondent has registered and is using the disputed domain names in bad faith.

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

The Respondent did not substantially reply to the Complainant's contentions, however on May 24, 2023, its representative sent an email to the Center indicating that they "would like to settle the matter at once and quickly".

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

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

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 names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not formally replied to the Complaint. See *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#).

For the evaluation of this case, the Panel has further taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views stated therein.

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

To begin with, the Panel confirms that the Complainant has satisfied the threshold requirement of having trademark rights in AIRBUS.

The Panel further finds that the disputed domain names are confusingly similar to the Complainant's AIRBUS trademark, as they fully incorporate the Complainant's trademark.

As stated at section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would generally not prevent a finding of confusing similarity. The addition of the country indication "Turkiye" respectively "Turkey" does not, in view of the Panel, prevent a finding of confusing similarity between the disputed domain names and the Complainant's AIRBUS trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

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

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of proving a negative, in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production of evidence shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain names to meet the requirements of paragraph 4(a)(ii) of the Policy. *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly no license to use the Complainant's trademark within the disputed domain names.

There is also no indication in the current record that the Respondent is commonly known by the disputed domain names. In the absence of a substantive response, the Respondent has particularly failed to

demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c), or provide any other evidence of rights or legitimate interests in the disputed domain names.

Even more, the Panel notes that the nature of the disputed domain names carries a significant risk of implied affiliation or association and that such implied affiliation was obviously the intent of the Respondent.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

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

The Panel believes that the Respondent deliberately attempted to create a likelihood of confusion among Internet users in bad faith, particularly for the following reasons.

At the date of registration of the disputed domain names, the Respondent was apparently well aware of the Complainant and its widely known AIRBUS trademark. It is obvious to the Panel, that the Respondent has deliberately chosen the disputed domain names to target the Complainant and mislead Internet users. Consequently, the Panel is convinced that the Respondent has registered the disputed domain names in bad faith.

Additionally, the Panel finds that the Respondent is using the disputed domain names in bad faith. The Panel particularly notes that previously, the disputed domain names resolved to websites creating the false impression that they are authorized by the Complainant, obviously to gain illegitimate benefit by freeriding on the notoriety and goodwill of the Complainant's AIRBUS trademark. Particularly, the prominent use of the Complainant's AIRBUS trademark together with its official company logo on the associated websites as well as the inherently misleading nature of the disputed domain names is, in view of the Panel, compelling evidence that the Respondent intentionally tries to attract, for commercial gain, Internet users to its websites by deliberately creating a likelihood of confusion with the Complainant as to the source, sponsorship, affiliation or endorsement of its websites. The fact that the disputed domain name <airbusturkiye.com> meanwhile was offered for sale, is in view of the Panel another indication of the Respondent's bad faith (Annex 3 to the Complaint).

The fact that the disputed domain names do not currently resolve to active websites does not change the Panel's findings in this respect.

Taking all facts of the case into consideration, the Panel is convinced that this is a typical cybersquatting case, which the UDRP was designed to stop.

The Panel therefore concludes that the disputed domain names were registered and are being used in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, 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 names <airbusturkey.com> and <airbusturkiye.com> be transferred to the Complainant.

*/Kaya Köklü/*

**Kaya Köklü**

Sole Panelist

Date: May 31, 2023