

ADMINISTRATIVE PANEL DECISION

Qare SAS v. Ali MAAMRI, IDENET

Case No. D2023-2503

1. The Parties

The Complainant is Qare SAS, France, represented by IP Twins, France.

The Respondent is Ali MAAMRI, IDENET, France.

2. The Domain Name and Registrar

The disputed domain name <qare-me.com> (the “Disputed Domain Name”) is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 9, 2023. On June 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 12, 2023, 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 (1&1 Internet Limited) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 12, 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 June 19, 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 June 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 10, 2023.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on July 13, 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 French Company specialized in the provision of teleconsultation services for patients and healthcare professionals.

The Complainant is the owner of several registered trademarks (hereinafter the “QARE Trademarks”) including:

- the European Union wordmark “QARE”, No. 016509267, registered on July 10, 2017, for products and services in classes 9, 35, 36, 38, 42 and 44; and
- the European Union figurative mark  No. 016509325, registered on July 10, 2017, for products and services in classes 9, 35, 36, 38, 42 and 44.

The Complainant is also the owner of several domain names incorporating the QARE Trademarks including: <qare.services> and <qare.fr>.

The Disputed Domain Named was registered on January 26, 2021, and at the time of the Complaint redirects to another website with a look and feel similar to those of the Complainant’s own website.

5. Parties’ Contentions

A. Complainant

First, the Complainant submits that the Disputed Domain Name is similar to its QARE Trademarks. The Complainant contends that the Disputed Domain Name is highly similar to its own QARE Trademarks since it incorporates them wholly and that the mere addition of the word “me” does not prevent a finding of confusing similarity.

Then, the Complainant stands that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Complainant submits that there is no evidence that the Respondent is known under the Disputed Domain Name. The Complainant asserts that its QARE Trademarks were registered well before the registration of the Disputed Domain Name. The Complainant explains that there is no evidence demonstrating that the Respondent is using the Disputed Domain Name with a *bona fide* offering of good and services. On the contrary, the Disputed Domain Name redirects to another website highly similar to those of the Complainant which is evidence that the Respondent is trying to pass off as the Complainant or as someone affiliated to it.

Finally, the Complainant stands that the Disputed Domain Name was registered and is being used in bad faith. The Complainant asserts that it was impossible for the Respondent to ignore the existence of the Complainant, its activities and its QARE Trademarks. On the contrary, for the Complainant, the Respondent has deliberately chosen to register a domain name similar to the Complainant’s QARE Trademarks which predate the registration of the Disputed Domain Name. The Complainant submits that it has not licensed nor authorized the Respondent to register and use the Disputed Domain Name. The Complainant contends that the Respondent has registered the Disputed Domain Name to lure Internet users into thinking that it is the Complainant, or someone affiliated with it. Finally, the Complainant explains that it has sent a cease-and-desist letter to the Respondent after which the Respondent has continued to maintain the Disputed Domain Name.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the Disputed Domain Name, the Complainant shall prove the following three elements:

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark 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

According to the Policy, paragraph 4(a)(i), the Complainant shall prove that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

First of all, the Panel finds that the Complainant has provided evidence that it has rights in the QARE Trademarks.

Then, the Panel wishes to remind that the first element of the UDRP serves essentially 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. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of the UDRP (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

Regarding the Disputed Domain Name, the Panel finds that it is composed of:

- the QARE Trademarks;
- the word "me";
- a hyphen; and
- the generic Top-Level Domain ("gTLD") ".com".

The gTLD in a domain name is viewed as a standard registration requirement and as such is usually disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

According to prior UDRP panel decisions, it is sufficient that the Disputed Domain Name incorporates the entirety of a trademark, in order to consider the domain name as confusingly similar to that mark for purposes of UDRP standing. The mere addition of terms to a mark does not prevent a finding of confusing similarity (see section 1.8 of the [WIPO Overview 3.0](#)).

Regarding the Disputed Domain Name, the Panel finds that it incorporates the QARE Trademarks in their entirety and considers that the insertion of a hyphen and of the word "me", does not prevent a finding of confusing similarity. Therefore, the Panel finds that these elements do not prevent the QARE Trademarks to be recognizable in the Disputed Domain Name.

Therefore, the Panel holds that the Disputed Domain Name is confusingly similar to the Complainant's QARE Trademarks, and that the Complainant has established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant shall demonstrate that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The Policy, paragraph 4(c), outlines circumstances that if found by the Panel to be proved shall demonstrate the Respondent's rights or legitimate interests in the Disputed Domain Name.

These circumstances are:

- before any notice of the dispute to the respondent, the 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
- the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- the 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.

According to prior UDRP panel decisions, it is sufficient that a complainant shows *prima facie* that a respondent lacks rights or legitimate interests in a domain name in order to shift the burden of production to the respondent (see *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Indeed, while the overall burden of proof in a UDRP proceeding is on the complainant, previous UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible 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 *prima facie* that a 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see section 2.1 of the [WIPO Overview 3.0](#)).

According to the Panel, the Complainant has shown *prima facie* that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. Indeed, it appears that the Respondent has not received any authorization to use the QARE Trademarks in any manner, including in domain names.

Moreover, the Panel finds that there is no evidence that the Respondent is commonly known by the Disputed Domain Name or that the Respondent has the intent to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. On the contrary, the Complainant has provided evidence that the Respondent has redirected the Disputed Domain Name to another website with a look and feel highly similar to those of the Complainant to try to pass off as the Complainant or as someone affiliated to the Complainant.

In any case, the Respondent did not reply to the Complainant's contentions, and consequently, did not rebut the Complainant's *prima facie* case.

Therefore, according to the Policy, paragraphs 4(a)(ii) and 4(c), the Panel considers that the Complainant has established that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name.

C. Registered and Used in Bad Faith

According to the Policy, paragraph 4(a)(iii), the Complainant shall prove that the Disputed Domain Name has been registered and is being used in bad faith.

Thus, paragraph 4(b) provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

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

According to prior UDRP decisions, particular circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant's area of activity or natural zone of expansion), (ii) the chosen top-level domain (e.g., particularly where corresponding to the complainant's area of business activity or natural zone of expansion), (iii) the content of any website to which the domain name directs, including any changes in such content and the timing thereof [...], (vii) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant (see section 3.2.1 of the [WIPO Overview 3.0](#)).

Prior panels have also held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. In some such cases, the respondent may host a copycat version of the complainant's website (see section 3.4 of the [WIPO Overview 3.0](#)).

First of all, the Panel finds that it is established that the Complainant's QARE Trademarks were registered and used before the registration of the Disputed Domain Name. .

Moreover, the Panel points out that the Disputed Domain Name used to redirect to another website trying to pass off as the Complainant or someone affiliated with him in order to lure Internet users.

Accordingly, the Panel finds that the Complainant has provided evidence that the Disputed Domain Name was registered and used by the Respondent in an attempt to pass off as the Complainant or someone affiliated to the Complainant.

In any case, the Respondent did not rebut the Complainant's contentions.

Considering all of the above, it is not possible to conceive any plausible actual or contemplated good faith registration and use of the Disputed Domain Name by the Respondent.

Therefore, in view of all the circumstances of this case, the Panel holds that the Respondent has registered and is using the Disputed Domain Name in bad faith according to the Policy, paragraphs 4(a)(iii) and 4(b).

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, <qare-me.com>, be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: July 26, 2023