

ADMINISTRATIVE PANEL DECISION

Ariston S.p.A. v. ali hashem, agent egypt, eldawlya seo1, mostafa bahaa, omar ayman, ahmed sdeek, united center, ayman elrawe
Case No. D2023-3266

1. The Parties

The Complainant is Ariston S.p.A., Italy, represented by Mar.bre Srl, Italy.

The Respondents are hashem, agent egypt, eldawlya seo1, mostafa bahaa, omar ayman, ahmed sdeek, united center, and ayman elrawe, Egypt.

2. The Domain Names and Registrars

The disputed domain names <ariston-center.com>, <ariston-customer.com>, <ariston-eg.com>, <ariston-egp.com>, and <ariston-number.com> are registered with NameCheap, Inc. (the “First Registrar”).

The disputed domain name <ariston-egypt.com> is registered with Launchpad.com Inc. (the “Second Registrar”).

The disputed domain name <ariston-egypt.one> is registered with GoDaddy.com, LLC (the “Third Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 28, 2023. On July 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 31, 2023, the First and Second Registrars and, on August 1, 2023, the Third Registrar, transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (ali hashem, agent egypt) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint or to file a separate complaint for each of the disputed domain names. The Complainant filed an amended Complaint on August 4, 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 August 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2023. The Respondent omar ayman sent two email communications to the Center on August 16, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on September 18, 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's group supplies heating systems and related products worldwide under the mark ARISTON.

The Complainant owns many trade marks for ARISTON including International Registration No. 254242, registered on March 31, 1962, in classes 7, 9 and 11, and designating Egypt amongst other countries.

The Complainant operates a website at "www.ariston.com".

The disputed domain names were registered on the following dates:

<ariston-egypt.com> ("Domain 1") - November 29, 2016
<ariston-egypt.one> ("Domain 2") - July 31, 2017
<ariston-eg.com> ("Domain 3") - December 14, 2017
<ariston-center.com> ("Domain 4") - November 8, 2020
<ariston-number.com> ("Domain 5") - November 30, 2020
<ariston-customer.com> ("Domain 6") - January 9, 2021
<ariston-egp.com> ("Domain 7") - August 2, 2020

The Respondents are collectively referred to hereafter as "the Respondent", unless it is necessary to refer to them separately.

All of the disputed domain names have been used for websites purporting to offer the Complainant's goods for sale and/or to provide spare parts and/or servicing for the Complainant's products. Each website sought Egypt in some manner to give the impression that it was operated by an entity that officially represented the Complainant, e.g., by claiming to be "officially accredited" or "authorised" or "approved" by, or the "main branch of" the Complainant. The websites at Domains 1, 2, 3 and 7 were branded with a logo similar to that of the Complainant, consisting of the words "ariston" or "ariston egypt" plus a red house device.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

B. Respondent

The Respondent did not reply formally to the Complainant's contentions. However, the Center did receive an email from the registrant of Domain 4 claiming: that the other disputed domain names were not affiliated with his company; that all of the content on Domain 4 had been removed; that he had used Domain 4 in good faith as "it is common in Egypt to use this name by many people not knowing that it is a protected

trade name”; and that he promised not to create any more domain names that were similar to the Complainant’s trade mark.

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain names are identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- the disputed domain names have been registered and are being used in bad faith.

A. Consolidation - Preliminary Issue

The principles governing the question of whether a complaint may be brought by multiple complainants or against multiple respondents are set out in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 4.11.

Here, the Panel notes the following:

1. All of the disputed domain names follow the same format, namely the word “ariston” followed by a hyphen plus a single additional term, four of which denote Egypt.
2. Domains 3, 4, 5, 6 and 7 were registered through the same Registrar.
3. Many of the websites at the disputed domain names share identical images and website layout.
4. Only one of the persons named as registrant of the disputed domain names has appeared in this proceeding to dispute any connection with the other disputed domain names; furthermore, that person (the registrant of Domain 4) has failed to specifically address the Complainant’s consolidation arguments including as to the striking similarities between the websites at Domains 4 and 5.

For the above reasons, the Panel is satisfied that the disputed domain names and corresponding websites are subject to common control, and that, in the circumstances, consolidation is fair and equitable to all parties, and also procedurally efficient.

B. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (here, “Egypt”, “eg”, “center”, “number”, “customer”, “egp”) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, 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 a *prima facie* case that the 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. [WIPO Overview 3.0](#), section 2.1.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, the Respondent’s websites purport to offer the Complainant’s own goods for sale and/or to provide spare parts and/or servicing for the Complainant’s products. For the purposes of the second element, the Panel will assume that the Respondent is genuinely supplying such goods and services (although it is not clear to the Panel that this is the case). The consensus view of UDRP panels is that to establish a *bona fide* offering of goods or services in such circumstances, a respondent must comply with certain conditions (the “Oki Data requirements”). [WIPO Overview 3.0](#), section 2.8.

In this case, the Panel considers that the Respondent has failed at least to comply with the Oki Data requirement to accurately and prominently disclose the Respondent’s relationship with the trade mark holder, as explained in section 6D below.

The Panel also finds that the composition of the disputed domain names, which incorporate the Complainant’s ARISTON trade mark in its entirety, with the addition of the terms “Egypt”, “eg”, “center”, “number”, “customer”, and “egg”, carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel considers that the Respondent’s use of the disputed domain names cannot be said to be *bona fide*.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

Based on the available record, the Panel finds the second element of the Policy has been established.

D. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel considers that the Respondent has intentionally attempted to attract Internet users to its websites for commercial gain by creating a likelihood of confusion with the Complainant’s trade mark in accordance with paragraph 4(b)(iv) of the Policy.

First, the disputed domain names include the Complainant’s highly distinctive mark.

Second, the Respondent has used the disputed domain names for websites that create the impression that they are officially associated with the Complainant including by making numerous statements to such effect

and, in some cases, by prominent use of a close variation of the Complainant's mark/logo, as well as by the lack of any prominent disclaimer.

The Respondent omar ayman claims, somewhat unconvincingly, that it is common for many people in Egypt to use the Complainant's mark "not knowing that it is a protected trade mark". However, even if that were true, the Panel is concerned only with the activities of the Respondent, which purports to deal in the Complainant's products or related goods/services and is therefore very likely to be aware that the Complainant possesses legal rights in its distinctive mark. Nor can the Respondent evade the consequences of its bad faith conduct by removing its website (at Domain 4) or by promising not to register any more domain names that are similar to the Complainant's mark.

Based on the available record, the Panel finds the third element of the Policy has been established.

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, <ariston-center.com>, <ariston-customer.com>, <ariston-eg.com>, <ariston-egp.com>, <ariston-egypt.com>, <ariston-egypt.one>, <ariston-number.com>, be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: October 3, 2023