

ADMINISTRATIVE PANEL DECISION

FINANCIERE OUI CARE v. Carolina Rodrigues

Case No. DCO2023-0033

1. The Parties

The Complainant is FINANCIERE OUI CARE, France, represented by Casalonga Avocats, France.

The Respondent is Carolina Rodrigues, Panama.

2. The Domain Name and Registrar

The disputed domain name <ouicare.co> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 25, 2023. On March 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 27, 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 the Complainant on March 28, 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 March 28, 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 March 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 19, 2023.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on April 26, 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 registered as a simplified joint stock company in France in 2017 and is part of the OUI CARE GROUP (the “Complainant’s Group”). The Complainant provides personal services under the name OUI CARE. The Complainant’s Group provides various home care products and services, with more than 110,000 customers and around 600 agencies in France, Spain, Mexico, and Portugal.

The Complainant is the owner of trademark registrations for “oui care” in various countries and classes. The relevant trademarks include, *inter alia*, International Trademark Registration for **ouicare**[®] (Registration No. 1388569) in Classes 35, 37, 39, 41, 43, 44 and 45 registered on November 10, 2017, designating the United Kingdom, Ireland, Mexico, Sweden, Austria, Benelux Office for Intellectual Property, Switzerland, Germany, Spain, Italy, Monaco, Poland, Portugal, Romania, San Marino, French Trademark Registration for “**ouicare**[®]” (Registration No. 4361458) in Classes 35, 37, 39, 41, 43, 44, and 45 registered on May 15, 2017, French Trademark Registration for “Groupe Oui Care” (Registration No. 4302537) in Classes 16, 35, 37, 39, 41, 42, 43, 44, and 45 registered on September 27, 2016, and French Trademark Registration for “Oui Care Group” (Registration No. 4302527) in Classes 16, 35, 37, 39, 41, 42, 43, 44, and 45 registered on September 27, 2016 (altogether, the “Complainant’s Trademarks”).

The dominant textual element of the Complainant’s Trademarks, “oui care”, has been incorporated in two domain names claimed to be registered by the Complainant, namely <ouicare.com> and <ouicare.fr> on December 24, 2011 and June 19, 2013 respectively (collectively the “OUI CARE Domain Names”). The OUI CARE Domain Names resolve to the Complainant’s main website at “www.ouicare.com” (the “Complainant’s Website”). The domain name information provided by the Complainant shows that <ouicare.com> was registered in the name of “O2 développement” instead of the Complainant, while the identity of the registrant of the other OUI CARE Domain Name <ouicare.fr> was masked by a privacy shield. No further evidence has been adduced by the Complainant concerning its relationship with “O2 développement” or its rights to use the OUI CARE Domain Names. Nevertheless, as the OUI CARE Domain Names resolve to the Complainant’s Website, the Panel is satisfied that the OUI CARE Domain Names are registered by the Complainant’s Group and/or the Complainant has equitable rights to use such domain names. Indeed, a quick Internet search by the Panel shows that “O2” is a brand under the Complainant’s Group.

The Disputed Domain Name was registered on January 2, 2023, which is more than 6 years after the Complainant’s Trademarks were first registered on September 27, 2016. The Disputed Domain Name resolves to a page comprising pay-per-click (“PPC”) advertising links (the “Respondent’s Website”).

5. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

- (a) The Complainant contends that the Disputed Domain Name is identical or confusingly similar to the Complainant’s Trademarks and that the dominant textual element of the Complainant’s Trademarks is reproduced in its entirety in the Disputed Domain Name. The country-code Top Level Domain (TLD) extension, “.co” in the Disputed Domain Name does not serve to distinguish it from the Complainant’s Trademarks. The fact that the Complainant’s Trademarks are figurative in nature or contain the word “Groupe” / “Group” is not relevant since the dominant textual element “oui care” in the Complainant’s Trademarks is incorporated in the Disputed Domain Name.

- (b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has not received any license or other authorization of any kind to make use of the Complainant's Trademarks as part of a domain name or otherwise. There is no evidence to show that the Respondent used or has made preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the Complainant's Trademarks. There is also no evidence suggesting that the Respondent is commonly known by the Disputed Domain Name. The Respondent uses the Disputed Domain Name to mislead and divert Internet users to various sites through the PPC advertising links made available on the Respondent's Website.
- (c) The Respondent's registration of the Disputed Domain Name, which fully incorporates and is confusingly similar to the Complainant's Trademarks, is in itself an act of bad faith. Moreover, the Respondent must have been fully aware of the existence of the Complainant's rights in the Complainant's Trademarks when it registered the Disputed Domain Name because of the wide-spread reputation acquired by the Complainant in the Complainant's Trademarks. The Respondent also uses the Disputed Domain Name to host parked pages comprising PPC links and divert Internet users from the Complainant's Website to various sites by virtue of the association between the Disputed Domain Name and the Complainant's Trademarks. Finally, the Respondent has a history of bad faith registrations and was involved in at least three other domain name disputes, all of which resulted in the transfers of the relevant disputed domain names.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of 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;
- (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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademarks based on the trademark registrations listed above in Section 4.

Where a complainant holds a trademark registration for a design logo which contains a prominent textual element that is confusingly similar to the disputed domain name, UDRP panels have found that the first element was satisfied (see section 1.10 of [WIPO Overview 3.0](#) and *American Public University System, Inc. v. Toby Schwarzkopf / Kyle Kupher / Domains by Proxy, LLC / DreamHost, LLC*, WIPO Case No. [D2017-0070](#)). UDRP panels have also consistently found that a domain name that wholly incorporates a complainant's trademark is identical or confusingly similar to the complainant's trademark (see *Societe Air France v. Indra Armansyah*, WIPO Case No. [D2016-2027](#); and *Icebug AB v. Domain Administrator*, WIPO Case No. [D2013-1823](#)).

Further, it is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the ccTLD extension, ".co" in this case, may be disregarded. See section 1.11 of [WIPO Overview 3.0](#).

The Disputed Domain Name incorporates the prominent textual element of the Complainant's Trademarks, *i.e.* "oui care", in its entirety and does not contain any other element to set it apart from the Complainant's Trademarks.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademarks, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Panel accepts that the Complainant has not authorized the Respondent to use the Complainant's Trademarks. There is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the Complainant's Trademarks. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name.

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the disputed domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent did not submit a Response. The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favour of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) Before any notice to him of the dispute, the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) The Respondent has been commonly known by the Disputed Domain Name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) The Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence to suggest the Respondent used or made demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services. The Panel agrees with the Complainant that the Respondent's use of the Disputed Domain Name to host parked pages comprising PPC advertising links does not represent a *bona fide* offering of goods or services. See section 2.9 of the [WIPO Overview 3.0](#).

No evidence has been provided to show that the Respondent has trademarks rights corresponding to the Disputed Domain Name or that the Respondent has become known by the Disputed Domain Name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Name incorporates the Complainant's Trademarks in its entirety. A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "ouicare" relate to the Complainant's services and/or third party websites providing information relating to the Complainant's services. Therefore, the Panel agrees with the Complainant that the Respondent must have been aware of the Complainant and its rights in the Complainant's Trademarks when registering and using the Disputed Domain Name.

In addition, the Panel finds that the following factors further support a finding that the Disputed Domain Name was registered and has been used by the Respondent in bad faith:

- (i) The Respondent failed to respond to the Complainant's contentions and has provided no evidence of actual or contemplated good faith use by it of the Disputed Domain Name.
- (ii) The Respondent registered the Disputed Domain Name using a privacy shield to conceal its identity (see *Primonial v. Domain Administrator, PrivacyGuardian.org / Parla Turkmenoglu*, WIPO Case No. [D2019-0193](#)).
- (iii) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name is confusingly similar to the Complainant's Trademarks. It can be inferred that the Respondent used the Disputed Domain Name to earn click-through revenue from the misdirection of Internet users to the Respondent's Website caused by the confusing similarity between the Disputed Domain Name and the Complainant's Trademarks (see *Société Louis Delhaize Financière et de Participation (DELFIPAR) v. Privacy service provided by Withheld for Privacy ehf / Vallee Virginie*, WIPO Case No. [D2021-4126](#)). Also, as discussed above, the Respondent lacks rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)).
- (iv) The Respondent engaged in a pattern of conduct in registering multiple trademark-abusive domain names which resulted in UDRP decisions ordering her, among other respondents involved, to transfer the relevant domain names to the complainants on at least three other occasions (see, for instance, *Rothesay Life Plc v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-1520](#)). See section 3.1 of the [WIPO Overview 3.0](#).

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

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 <ouicare.co> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: May 11, 2023