

## **ADMINISTRATIVE PANEL DECISION**

### **GROUPE COURIR v. halille azami**

### **Case No. DIO2023-0049**

#### **1. The Parties**

The Complainant is GROUPE COURIR, France, represented Nameshield, France.

The Respondent is halille azami, Belgium.

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

The disputed domain name <courir.io> (the “Disputed Domain Name”) is registered with Dynadot Inc (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2023. On December 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 6, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on December 7, 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 the same day,

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 December 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 31, 2023. The Response was filed with the Center on December 31, 2023.

The Center appointed Nick J. Gardner as the sole panelist in this matter on January 12, 2024. 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. It sells a range of sneakers, ready-to-wear and fashion accessories for men, women and children. In 2018 it had 188 stores and 50 affiliated stores in France. The Complainant is also present internationally, with 27 stores located in Spain, Poland and in the Maghreb, the Middle East, and overseas territories.

The Complainant owns various registered trademarks for the term “courir” – see for example International trademark no. 941035 registered on September 25, 2007. These are referred to as the COURIR trademark in this decision. Its principal website is linked to the domain name <courir.com>, which it registered in 1998.

The Disputed Domain Name <courir.io> was registered on November 24, 2023, and resolves to a parking page with commercial “click through” links.

#### **5. Parties’ Contentions**

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

The Complainant’s contentions can be summarized as follows:

The Disputed Domain Name is identical to the COURIR trademark in which it clearly has rights.

The Respondent has no rights or legitimate interests in the term “courir”.

The Disputed Domain Name was registered and is being used in bad faith. The Respondent has linked it to a parking page with click through links. It has also been offered for sale on SEDO for a price of USD 3,950.

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

The Response is very short and expressed in somewhat angry and intemperate language (for example: “ as an ex elite track and field athlete, there is no trademark that can entitle these wealthy [expletive]s to sue left and right to hijack a dictionary word. i started to Couri(running) more than 40 years ago”).

In summary the Respondent says that “courir” is an ordinary French word being the verb “to run”. He says that he is an elite track and field athlete who started running over 40 years ago. He says he is a former 1500m champion in Belgium and a member of “CABW” which is one of the top Belgian athletics clubs. He exhibits results showing his name (see below). He says the Complainant is trying to hijack the dictionary. The Respondent say he registered the Disputed Domain Name for use in connection with an athletics related blog but has not yet created that blog. He says the SEDO listing offering the Disputed Domain Name for sale was a mistake and the Disputed Domain Name is not for sale. He exhibits SEDO records which he says he has not earned any money from the parking of the Disputed Domain Name.

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

##### **6.1 Preliminary issue - Nature of the .IO Policy**

So far as the .IO Policy is concerned, the Panel notes that it is substantially similar to (though not identical to) the Uniform Domain Name Dispute Resolution Policy (the “UDRP”) as adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”). The Panel will, where appropriate, apply principles that have been established in relation to the UDRP in determining this dispute.

##### **6.2 Substantive Issues**

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) The Disputed Domain Name is identical with 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 or is being used in bad faith.

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

The Panel finds that the Complainant has rights in the COURIR trademark.

The Disputed Domain Name is identical to the COURIR trademark. It is well established that the country code Top-Level Domain ("ccTLD"), in this case ".io", does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar. See, for example, *Government Employees Insurance Company ("Geico") v. Privacy.cc / Bulent Tekmen*, WIPO Case No. [DIO2020-0003](#).

Accordingly, the Panel finds that the Disputed Domain Name is identical to the Complainant's trademark and the first condition of paragraph 4(a) of the Policy has been fulfilled.

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

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the Disputed Domain Name:

- (i) before any notice to the Respondent of the dispute, 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.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use the COURIR trademark. The Complainant has therefore established a *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name (see, for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); and *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Respondent says he is an "ex elite track and field athlete". He provides limited documentary evidence to support this claim – a single print out of what appear to be various results in which his name ("Azami H") appears in respect of the "4 x 1500" event. The printout is undated and appears to derive from a web address of "cabw.be/records/piste". The Panel has checked that address, which is at the website of the Royal Cercle Athlétique du Brabant Wallon ("RCABW") which is a Belgian athletics club. The Panel verified the entry that the Respondent has exhibited appears in a section of the website which shows what appear to be club record holders for various events. A Google search for "Halille Azami 1500" carried out by the Panel returned results which included athletics results published by the Royal Excelsior Sports Club Brussels which contain an entry with the Respondent's name against it for an 800m event. Again, these results would appear to be showing the club record holder for the event in question. Accordingly, the Panel accepts the Respondent's evidence that he is (or was) an athlete and specifically a runner. The Panel assumes he is an amateur. The Panel does not know whether he is (or was) an "elite athlete" but assumes that his apparent

position as at least a record holder at Belgian club level indicates he is (or was) at least a competitive amateur athlete. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.8.

Given the Respondent's athletics background his account that he registered the Disputed Domain Name because of its ordinary dictionary meaning - "to run" - is at least plausible and credible. If the Respondent had produced further credible evidence supporting his claimed intended use for the Disputed Domain Name in relation to an athletics related blog, the Panel would have no hesitation in finding he had established a legitimate interest within paragraph 4(c)(i) of the Policy. The difficulty however is that the Respondent has done no more than state "so we did not have the time to create a hosting account to create the Blog/Newsletter for which this domain was registered". [WIPO Overview 3.0](#) provides as follows under section 2.2 "What qualifies as prior use, or demonstrable preparations to use the domain name, in connection with a *bona fide* offering of goods or services? As expressed in UDRP decisions, non-exhaustive examples of prior use, or demonstrable preparations to use the domain name, in connection with a bona fide offering of goods or services may include: (i) evidence of business formation-related due diligence/legal advice/correspondence, (ii) evidence of credible investment in website development or promotional materials such as advertising, letterhead, or business cards (iii) proof of a genuine (i.e., not pretextual) business plan utilizing the domain name, and credible signs of pursuit of the business plan, (iv) bona fide registration and use of related domain names, and (v) other evidence generally pointing to a lack of indicia of cybersquatting intent. While such indicia are assessed pragmatically in light of the case circumstances, clear contemporaneous evidence of bona fide pre-complaint preparations is required". In the present case the Respondent has produced absolutely no contemporaneous evidence corroborating his claim to having intended to produce a blog of some kind linked to the Disputed Domain Name. This makes it difficult to determine whether or not the Respondent has successfully rebutted the inference the Complainant has raised. In all the circumstances the Panel thinks it is unnecessary to reach a conclusion on this issue, given the Panel's finding on bad faith (below).

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

The Panel does not regard this issue as straightforward on the facts of this case.

Ultimately a finding of bad faith registration or use depends upon showing that the Respondent was in some way targeting the Complainant or its trademark. As indicated above given the Respondent's athletics background the Panel regards as at least plausible and credible his claim to have registered the Disputed Domain Name because of its dictionary meaning, rather than because of any connection with the Complainant. The evidence the Complainant relies on to in effect show that the Respondent had the Complainant in mind is (1) the offering of the Disputed Domain Name for sale, and (ii) its use in respect of a parking page. The Respondent says "for the record [courir.io](#) was mistakenly listed on SEDO for a short period, The Webmaster listed several domains, and added [courir.io](#) by mistake". In fact, the Complainant's evidence comprises a page from the domain name <[afternic.com](#)> (not SEDO) showing the Disputed Domain Name offered for sale at a price of USD 3,950. The Panel has checked the current position and the Disputed Domain Name is no longer listed for sale on that platform. It does still resolve to a parking page, although when the Panel accessed that page from the United Kingdom with a Safari browser it rather oddly produced a page with links written in what appear to be Chinese language characters. The page in question appears to be provided by SEDO (clicking on a link at the bottom of the page leads to some SEDO terms and conditions). The Respondent has produced evidence which on its face appears to show he has earned no revenue from SEDO in the period the Disputed Domain Name has been registered.

The Panel would have found it easier to resolve this issue if the Respondent had provided more information about (a) his intended blog – see above; (b) exactly what happened with the Disputed Domain Name and what the "mistake" was that caused it to be offered for sale; and (c) why the Disputed Domain Name was parked with SEDO. The Panel has however got the distinct impression that the Response was expressed in short and intemperate terms, with very little detail, simply because the Respondent has been angered by the Complaint and finds it difficult to believe that his registration of a dictionary word directly relevant to his background as an athlete, can be challenged in this manner.

Taken the evidence as a whole, and notwithstanding the brevity of the Response, the Panel is inclined on the balance of probabilities to give the Respondent the benefit of the doubt and accept that he was not acting in bad faith. It seems to the Panel, more likely than not, that his choice of the Disputed Domain Name was for its dictionary meaning and not because of any connection with the Complainant. The Respondent has stated clearly that he does not wish to sell the Disputed Domain Name and the offer for sale the Complainant identified appears to have been discontinued. It is not clear to the Panel that any links that may be present on the associated parking page target the Complainant or its trademark. Accordingly, the Panel is not persuaded that this evidence shows the Respondent's intent was to target or take advantage of the Complainant or its trademark, as opposed to registration of the word for its dictionary meaning ("to run" in English), given the Respondent's background as an athlete and runner.

As a result, the Panel declines to find that the Disputed Domain Name has been registered or is being used in bad faith. Accordingly, the third condition of paragraph 4(a) of the Policy has not been fulfilled.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Nick J. Gardner/*

**Nick J. Gardner**

Sole Panelist

Date: January 29, 2024