

ADMINISTRATIVE PANEL DECISION

Aramex International LLC v. alian hicham
Case No. D2022-1317

1. The Parties

The Complainant is Aramex International LLC, United Arab Emirates, represented by SafeNames Ltd., United Kingdom.

The Respondent is alian hicham, Spain.

2. The Domain Name and Registrar

The disputed domain name <aramex.site> is registered with Ligne Web Services SARL (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 12, 2022. On April 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 14, 2022, 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 Parties on April 14, 2022, informing them that the language of registration agreement is French. The Center sent an another email communication to the Complainant on April 14, 2022 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 14, 2022, submitting that it wishes to pursue in English. The Respondent did not comment on the language of proceeding.

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 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 19, 2022.

The Center appointed Elise Dufour as the sole panelist in this matter on May 23, 2022. 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 an international express, mail delivery and logistics company founded in 1982 and based in Dubai, United Arab Emirates. The Complainant maintains over 600 offices in 65 countries and employs over 17,000 workers.

The Complainant owns several trademark registrations, including the European Union Trade Mark ARAMEX, no. 007165533, registered on October 10, 2009, and duly renewed for products and services in classes 16, 35 and 39.

In addition to the trademarks previously cited, the Complainant owns various domain names that contain the trademark ARAMEX and notably the domain name <aramex.com> registered on November 24, 1995.

The disputed domain name was registered on December 2, 2021.

It used to resolve to a website with a similar look and feel to the Complainant's official website featuring the Complainant's ARAMEX logo, colour scheme and similar website layout, while claiming to offer shipment tracking information to customers of the Complainant, inviting users to enter personal information.

Currently the disputed domain name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is (i) identical to its earlier trademarks, (ii) that the Respondent has no rights or legitimate interests in the disputed domain name, and (iii) that the disputed domain name has been registered and is being used in bad faith.

(i) The Complainant claims that the disputed domain name is identical to its trademarks, since the disputed domain name reproduces its ARAMEX trademarks.

(ii) The Complainant asserts that the Respondent has no rights or legitimate interests in respect to the disputed domain name since the Parties have no relationship and the Complainant has not permitted the Respondent to use its trademarks. Furthermore, the Complainant submits the Respondent intended to use the disputed domain name in order to pass off as the Complainant.

(iii) The Complainant alleges that the disputed domain name was registered and used in bad faith by the Respondent. According to the Complainant, the incorporation of the whole ARAMEX trademarks in the disputed domain name proves the Respondent's bad faith. The Complainant further asserts that the Respondent's use of the disputed domain name in order to give the impression of an association to fraudulently collect personal information of the Complainant's customers is evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of proceedings

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceedings shall be the language of the Registration Agreement. However, the Panel is given the authority to determine a language of proceeding other than the language of the Registration Agreement, taking into account the circumstances of every individual case.

The Complainant states that to the best of its knowledge, referring to other panel decisions involving the same Registrar, the Registration Agreement is in French. Nevertheless, the Complainant requests that the language of proceedings be English.

The Panel has carefully considered all elements of this case, in particular, the Complainant's arguments in connection to its request that the language of proceedings be English; the lack of response of the Respondent (the Panel notes that the Respondent had the opportunity to put forward arguments in either English or French); the fact that the disputed domain name was linked to an active webpage that was entirely and exclusively in English and that contain hyperlinks to other webpages that are also entirely in English, so that the Panel concludes that the Respondent has no problem with reading and writing in English; and the fact that French as the language of proceedings could lead to unwarranted delay and costs for Complainant.

In view of all these elements, the Panel rules that the language of proceedings shall be English.

6.2. Discussion and Findings on the merits

The Policy requires the Complainant to prove 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 in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Complainant submitted evidence, which incontestably and conclusively establishes rights on the ARAMEX trademarks.

The disputed domain name wholly incorporates the Complainant's trademark ARAMEX, which, as it has been long established by previous UDRP panels, typically is sufficient to determine that a disputed domain name is identical or confusingly similar to the Complainant's trademarks.

Disregarding the ".site" generic Top-Level Domain as a necessary technical requirement, the Panel finds that the disputed domain name is identical to the Complainant's trademarks and that the requirement of paragraph 4(a)(i) of the Policy is met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that indicate the Respondent's rights to or legitimate interests in the disputed domain name.

These circumstances are:

- (i) before any notice 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 (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired 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 Respondent, by not formally responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to and/or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

In that sense, the Complainant states that it has not licensed or otherwise permitted the Respondent to use the ARAMEX trademark in the disputed domain name, nor is there any sort of relationship between the Complainant and the Respondent.

Furthermore, the Complainant states that the Respondent is not 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 at issue.

Indeed, the Complainant submitted evidence that the Respondent used the disputed domain name in order to give the impression of association with the Complainant's business and to obtain personal information such as card details and tracking information, indicating that the disputed domain name has been used fraudulently.

As long established, the use of a domain name for illegal activity (e.g. phishing [...] impersonation/passing off, or other types of fraud can never confer rights or legitimate interest on a respondent (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, "[WIPO Overview 3.0](#)", section 2.13.1).

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in respect to the disputed domain name.

C. Registered and Used in Bad Faith

The Respondent's bad faith in registering the disputed domain name is made clear by the incorporation of the whole ARAMEX trademark, which has accrued substantial goodwill and recognition since the Complainant's establishment in 1982.

Besides, the Complainant has demonstrated that the Respondent registered the disputed domain name to intentionally target the Complainant.

The Panel therefore finds that the Respondent registered the disputed domain name in bad faith in order to take advantage of the Complainant's reputation.

As to the use that has been made of the disputed domain name, the Panel finds that the fact that the Respondent uses of the disputed domain name for a website imitating the Complainant's look and feel website is evidence of bad faith.

Furthermore, the Panel finds that the fact that the website currently is inactive, and thus is no longer being exploited by the Respondent, does not prevent to conclude that the Respondent is acting in bad faith. Indeed, previous UDRP panel decisions have established that the non-use of the disputed domain name

does not prevent a finding of bad faith under the doctrine of passive holding.

As to the circumstances which lead to the conclusion that the Respondent is acting in bad faith, the Panel finds that the Respondent did not respond to the cease and desist letter sent by the Complainant's representatives on January 5, 2022, nor to the present Complaint.

The Panel finds that the Complainant successfully fulfilled the requirements of paragraph 4(a)(iii).

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 <aramex.site> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: June 6, 2022