

ADMINISTRATIVE PANEL DECISION

Acoes Garantem O Futuro LTDA. v. ANDRE LUIZ DA SILVA NEVES
Case No. D2022-4740

1. The Parties

The Complainant is Acoes Garantem O Futuro LTDA., Brazil, represented by Dannemann Siemsen, Brazil.

The Respondent is ANDRE LUIZ DA SILVA NEVES, Brazil.

2. The Domain Name and Registrar

The disputed domain name <agfinvestimentos.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 9, 2022. On December 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 13, 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 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 amendment to the Complaint on December 19, 2022.

The Center verified that the Complaint together with the amendment to the 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 December 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 19, 2023.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on January 24, 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 ACOES GARANTEM O FUTURO LTDA., a Brazilian company founded in 2019, which provides online education and offers, in partnership with Luiz Barsi Filho (the most successful investor in the Brazilian stock exchange), training programs on financial investment with the methodology known as “AGF” and “Ações Garantem o Futuro”. “Ações Garantem o Futuro” is also the title of the well-known book written by Luiz Barsi Filho.

The Complainant owns trademark registrations in Brazil for AGF and AÇÕES GARANTEM O FUTURO, including the following:

- Brazilian Trademark Registration No. 919450733, for AGF, registered on December 8, 2020; and
- Brazilian Trademark Registration No. 919450709, for AÇÕES GARANTEM O FUTURO, registered on December 8, 2020.

The Complainant is the owner of the domain name <agfmais.com.br>, registered on December 17, 2020.

The disputed domain name was registered on January 26, 2023, and redirects to the domain name <muvinvest.com>.

5. Parties' Contentions

A. Complainant

The Complainant argues that it has a well-established right over the trademark AGF, which is identical to the distinctive part of the disputed domain name.

The Complainant also argues that the expression “AGF” is associated with the Complainant and its activities and that both Complainant and Respondent work on the same financial and investment segment.

In addition, the Complainant informs that the Respondent has not been authorized to use AGF trademark or any domain name incorporated by such trademark and that it is not making a legitimate fair use of the disputed domain name.

The Complaint mentions that the Respondent registered the domain name <agfinvestimentos.com.br> in Brazil, which was transferred to the Complainant after an administrative procedure (Saci-Adm) filed by the Complainant and that even after this procedure, the Respondent registered the disputed domain name.

Further, the Complainant says that the Respondent had knowledge of the trademark AGF and registered the disputed domain name in bad faith and in a clear act of cybersquatting. The Complainant adds and shows evidence that in October 2022, the Respondent tried to sell the disputed domain name to the Complainant.

According to the Complainant, the disputed domain name creates a likelihood of confusion which leads the Complainant's target consumers to believe that the Respondent's website at the disputed domain name is somehow sponsored, affiliated or endorsed by the Complainant.

Finally, the Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainants must prove that:

- (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.

A. Identical or Confusingly Similar

The evidence presented demonstrates that the Complainant is the owner of the trademark AGF in Brazil, and of the domain name <agfmais.com.br>.

The Complainant's trademarks and domain name predate the registration of the disputed domain name.

The disputed domain name comprises the Complainant's trademark AGF. As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The addition of the term "investimentos", which means investments in Portuguese, does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

It is the general view among UDRP panels that the addition of merely dictionary, descriptive or geographical words to a trademark in a domain name does not prevent a finding of confusing similarity under the first element of the UDRP ([WIPO Overview 3.0](#), section 1.8).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names containing the trademark AGF.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, or that before any notice of the present dispute the Respondent has made 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. The Panel finds that the use of the disputed domain name, which incorporates the Complainant's trademark with the addition of the related descriptive term "investimentos", to redirect to a website offering investment opportunities in direct competition with the Complainant, does not correspond to a *bona fide* use of domain names under the

Policy.

Moreover, the construction of the disputed domain name itself is such to carry a risk of implied affiliation that cannot constitute fair use.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.* the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark AGF is registered by the Complainant in Brazil. The disputed domain name is comprised by the trademark AGF in its entirety, with the addition of the descriptive term “investimentos”, segment in which the Complainant operates.

The Respondent has no rights or legitimate interests in the disputed domain name.

All the evidence presented in the Complaint shows that at the time of registration of the disputed domain name, the Respondent was aware of the Complainant’s trademark and registered it in bad faith to purposely create a likelihood of confusion with the Complainant.

Moreover, the Respondent has chosen not to respond to the Complainant’s allegations. According to the panel’s decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), “[...] the failure of the Respondent to respond to the Complaint further supports an inference of bad faith”.

In view of the above reasons, this Panel finds that by registering and using the disputed domain name, the Respondent has intentionally attempted to attract, for its own or for third parties’ commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant’s trademark and misleading Internet users to believe that its website belongs to or is associated with the Complainant.

This Panel finds that the Respondent’s intention of taking undue advantage of the trademark AGF as described in paragraph 4(b)(iv) of the Policy has been demonstrated.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and are being used in bad faith.

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, <agfinvestimentos.com>, be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: February 7, 2023