

ADMINISTRATIVE PANEL DECISION

Verisure Sàrl v. John Walker
Case No. D2023-0186

1. The Parties

The Complainant is Verisure Sàrl, Switzerland, represented by BrandIT GmbH, Switzerland.

The Respondent is John Walker, United States of America.

2. The Domain Name and Registrar

The disputed domain name <arloapp.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 13, 2023. On January 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 16, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 17, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Respondent replied to the Notification of Registrant Information on February 17, 2023 requesting information about the proceedings. On January 18, 2023, the Center sent an email replying to the Respondent’s inquiry and providing more information. The Complainant filed an amended Complaint on January 20, 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 February 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2023. The Respondent did not submit any formal response. Accordingly, the Center notified the Respondent’s default on March 1, 2023.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on March 8, 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 describes itself as a leading provider of professionally monitored security solutions and the second largest home alarm provider in the world. The company has more than 3.6 million customers in 16 countries, employs 20,000 people across the World, and provides under the VERISURE and ARLO brands renown smart alarm systems, HD & 4K security cameras, doorbells & smart lighting. It further results from the Complainant's undisputed evidence that the Complainant launched a new ARLO application (app) in September of 2019, which is used to access and control remotely all ARLO devices.

The Complainant holds trademark registrations for the word mark ARLO in various jurisdictions, such as European Union Trademark Registration No. 014248694, registered on October 27, 2015 for goods and services in classes 9, 42 and 45.

The disputed domain name was registered on September 22, 2022.

The Complainant has provided evidence demonstrating that when the Complainant noticed the registration of the disputed domain name, the latter resolved to a website showcasing under the "products" section numerous ARLO security cameras bearing the ARLO-trademark, along with highlighting several features of the ARLO security cameras. Following the cease-and-desist letter, the website was taken down, and the disputed domain name resolved to a registrar parking page showing the following wording "This domain was recently registered at Namecheap. Please check back later!" along with showcasing several sponsored links (pay per click page). At the time the Complaint was filed, the disputed domain name once again resolved to a website showcasing security cameras and highlighting the key characteristics and selling points of ARLO security cameras.

Finally, the MXfunction of the disputed domain name is active.

5. Parties' Contentions

A. Complainant

Firstly, the Complainant points out that the disputed domain name is confusingly similar to the Complainant's registered trademarks ARLO since it fully incorporates said trademark which remains clearly recognizable within the disputed domain name. The term "app" added to the trademark in the disputed domain name implies a close connection to the Complainant's business and activities, especially considering the fact that ARLO devices can be accessed and controlled via an application software ("app").

Secondly, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Complainant contends that the Respondent does apparently neither own any trademark registration that gives him legitimate interest in the disputed domain name nor is he commonly known by the disputed domain name. Furthermore, the disputed domain name clearly refers to the Complainant, its trademarks, products and services. However, the Complainant did not authorize the creation of the disputed domain name. Finally, the MXfunction of the disputed domain name is active, which increases the risk of phishing.

Thirdly, the Respondent's registration and use of the disputed domain name constitutes – in the Complainant's view – bad faith. According to the Complainant, it seems that the Respondent was fully aware of the Complainant's rights, given that the second-level portion of the disputed domain name contains the trademark ARLO and the term "app", implying a direct association with the Complainant and its business.

Furthermore, the fact that the Respondent has changed the website content multiple times in response to the Complainant's actions further supports the conclusion that the Respondent initially registered the disputed domain name in bad faith. Therefore, it is very likely that the Respondent registered the disputed domain name incorporating the trademark ARLO intentionally, in order to take advantage of reputation of the trademark ARLO and the Complainant's goodwill, free riding on the Complainant's reputation. The Complainant never authorized this.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraph 4(a) of the Policy requires the Complainant to prove each of the following three elements in order to obtain an order that the disputed domain name should be transferred or cancelled:

- (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.

The Panel is satisfied that the registrant of record for the disputed domain name is the Respondent and will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must first of all establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

The Complainant is the owner of several trademark registrations consisting of the verbal element ARLO, e.g., European Union Trademark Registration ARLO No. 014248694 (verbal), registered on October 27, 2015 for goods and services in classes 9, 42 and 45.

The Panel notes that the Complainant's registered trademark ARLO is fully included in the disputed domain name. It is the view of this Panel that the combination of the trademark ARLO with the term "app" after the mark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark, since the latter remains clearly recognizable within the disputed domain name. In fact, in accordance with the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element.

Adding the TLD ".com", which is a technical requirement, is generally disregarded for the purpose of the analysis of confusing similarity.

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests in a disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

First, it results from the Complainant's uncontested evidence that the disputed domain name first resolved to a website showcasing under the "products" section numerous ARLO security cameras bearing the ARLO-trademark, along with highlighting several features of the ARLO security cameras. Following the cease-and-desist letter, the website was taken down, and the disputed domain name resolved to a registrar parking page showing the following wording "This domain was recently registered at Namecheap. Please check back later!", along with showcasing several sponsored links (pay per click links). At the time the Complaint was filed, the disputed domain name once again resolved to a website showcasing security cameras and highlighting the key characteristics and selling points of ARLO security cameras. However, as the Complainant affirmed undisputedly, it did not authorize the Respondent to register the disputed domain name and to use the ARLO trademark in this way. In this Panel's view, such use can therefore not be qualified as a *bona fide* offering of goods or services in accordance with paragraph 4(c)(i) of the Policy, since such use rather capitalizes on the reputation and goodwill of the Complainant's trademarks and is therefore likely to mislead Internet users. In addition, the Respondent did not submit any evidence of *bona fide* pre-Complaint preparations to use the disputed domain name. In particular, the Complainant's uncontested allegations demonstrate that it has not authorized or licensed the Respondent's use of the ARLO trademarks for registering the disputed domain name which is confusingly similar to the Complainant's trademark.

Furthermore, the Panel notes that there is no evidence in the record or Whois information showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Finally, the Panel notes that there is no evidence in the record either showing that the Respondent might be making a 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 pursuant to paragraph 4(c)(iii) of the Policy. In particular, the Panel considers it obvious that the Respondent wanted to mimic the Complainant's original products under the disputed domain name which entirely incorporates the trademark ARLO. Noting the absence of any disclaimer on the website at the disputed domain name and the composition of the disputed domain name, it effectively impersonates or suggests sponsorship or endorsement by the Complainant. Accordingly, further to section 2.8 of the [WIPO Overview 3.0](#), the Respondent's use of the disputed domain name to host an impersonating webstore excludes any *bona fide* offering, noncommercial, or fair use of the disputed domain name.

It is acknowledged that once the Panel finds a *prima facie* case has been established, the burden of production shifts to the Respondent to come forward with relevant and concrete evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

One of these circumstances that the Panel finds applicable to the present dispute is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

It is the view of this Panel that these circumstances are met in the case at hand:

It results from the documented and undisputed evidence provided by the Complainant that the disputed domain name first resolved to a website showcasing under the "products" section numerous ARLO security cameras bearing the ARLO-trademark, along with highlighting several features of the ARLO security cameras. Following the cease-and-desist letter, the website was taken down, and the disputed domain name resolved to a registrar parking page showing several sponsored links (pay per click page). At the time the Complaint was filed, the disputed domain name once again resolved to a website showcasing security cameras and highlighting the key characteristics and selling points of ARLO security cameras. However, as the Complainant affirmed undisputedly, it did not authorize the Respondent to register the disputed domain name and to use the ARLO trademark in this way. For the Panel, it is therefore evident that the Respondent knew of the Complainant's trademarks and products. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant's trademarks ARLO entirely when it registered the disputed domain name. Registration of a domain name which contains a third party's trademark, in awareness of said trademark and in the absence of rights or legitimate interests is suggestive of registration in bad faith (see *e.g.*, *Charlotte Tilbury TM Limited v. Domains By Proxy, LLC / Qiangdong Liu, 365rw.com.ltd*, WIPO Case No. [D2020-0408](#) with further references). The commercial offering and impersonation of the Complainant is sufficient to establish the Respondent's bad faith intent to mislead Internet users.

The finding of bad faith registration and use is supported by the following further circumstances resulting from the case at hand:

- (i) the fact that the details disclosed for the Respondent by the Registrar were incomplete, noting the mail courier's inability to deliver the Center's written communications;
- (ii) the fact that the disputed domain name has been connected to active MX records which could be understood as an indication that the Respondent may be engaged in a phishing scheme;
- (iii) the trademark ARLO being fully and identically incorporated in the disputed domain name;
- (iv) the Respondent's failure to submit a formal response to this Complaint;
- (v) the Respondent's failure to provide any evidence of actual or contemplated good-faith use; and
- (vi) the implausibility of any good faith use to which the disputed domain name may be put.

In the light of the above the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

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 <arloapp.com> be transferred to the Complainant.

/Tobias Malte Müller/

Tobias Malte Müller

Sole Panelist

Date: March 22, 2023