

ADMINISTRATIVE PANEL DECISION

AGCO Corporation v. Jowi Aviation
Case No. D2025-0361

1. The Parties

Complainant is AGCO Corporation, United States of America (“U.S.”), internally represented.

Respondent is Jowi Aviation, United States of America (“U.S.”).

2. The Domain Name and Registrar

The disputed domain name <agcofinances.com> (the “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 January 29, 2025. On January 30, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 30, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on January 31, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 4, 2025.

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 Respondent of the Complaint, and the proceedings commenced on February 6, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 27, 2025.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on March 6, 2025. 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

Complainant, located in Georgia, U.S., manufactures tractors and other agricultural equipment. Complainant's customers may arrange for financial services for purchasing such agricultural equipment through AGCO Finance AG, which is a company licensed by Complainant to provide such financial services.

Complainant owns several registered trademarks for the mark AGCO FINANCE and marks incorporating the element AGCO FINANCE mark, including

- Switzerland registered trademark number 644755 for the AGCO FINANCE word mark registered on June 4, 2013; and
- European Union registered trademark number 008847444 for the AGCO FINANCE word mark registered on May 27, 2010.

Use of these marks is licensed by AGCO Finance AG and its subsidiaries.

The Domain Name was registered on January 23, 2025, and at the time of filing of the Complaint, resolved to an inactive site. However, on January 27, 2025, two emails were sent from the Domain Name, impersonating Complainant's employee, on the pretext of reconciling banking information in order to attempt to divert payments from Complainant's customers to an account not operated by AGCO Finance AG.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Complainant contends that (i) the Domain Name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for AGCO FINANCE and that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for bona fide and well-known Agco Finance products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use the Domain Name, which includes Complainant's trademarks, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Rather, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) states that failure to respond to the complainant’s contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent’s default is not necessarily an admission that the complainant’s claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *The Knot, Inc. v. In Knot We Trust LTD*, WIPO Case No. [D2006-0340](#).

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence of its rights in the AGCO FINANCE trademarks, as noted above.

With Complainant’s rights in the AGCO FINANCE trademarks established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain (“TLD”) in which it is registered (in this case, “.com”), is identical or confusingly similar to Complainant’s trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is confusingly similar to Complainant’s AGCO FINANCE trademarks. These trademarks are recognizable in the Domain Name. In particular, the Domain Name includes Complainant’s AGCO FINANCE trademarks in their entirety, with the deletion of the space between “AGCO” and “FINANCE” and addition of the letter “s” following Complainant’s trademark AGCO FINANCE, in the Domain Name <agcofinances.com>. The deletion of the space and addition of the letter “s” in the Domain Name as noted does not prevent a finding of confusing similarity between the Domain Name and Complainant’s AGCO FINANCE trademarks.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a prima facie showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its trademarks, and does not have any rights or legitimate interests in the Domain Name. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use Complainant’s trademarks or to seek registration of any domain name incorporating the trademarks.

Respondent is also not known to be associated with the AGCO FINANCE trademarks and there is no evidence showing that Respondent has been commonly known by the Domain Name. Further, the nature of the Domain Name comprising Complainant's trademarks in their entirety, with the inclusion of the letter "s", indicates an awareness of Complainant.

In the present circumstances, although the Domain Name does not resolve to an active website, five days after the Domain Name was registered, two emails were sent from the Domain Name impersonating Complainant's employee, on the pretext of reconciling banking information in order to attempt to divert payments from Complainant's customers to an account not operated by AGCO Finance AG. The record shows that the email addresses in the originating email (sent by Respondent) all use the <agcofinances.com> Domain Name, but the website address appearing in the signature block of the email is <agcofinance.com>, which is the legitimate address of AGCO Finance AG's website. Furthermore, the email address noted in the signature block uses Complainant's <agcofinance.com> domain name format in the email address provided. These emails also use other trademarks registered to Complainant, including AGCO and the AGCO triangle design mark. These emails, however, also use the address of the Respondent in the email footer.

Such use of the Domain Name is misleading and such potential attempts to reach Complainant's AGCO FINANCE vendors, or business partners, may result in giving the false impression to Internet users that the Domain Name is owned by Complainant. The resulting confusion would cause damage to Complainant's reputation, goodwill and interfere with Complainant's business activities. The use of a domain name for email phishing and impersonation/passing off can never confer rights or legitimate interests on Respondent. See section 2.13, [WIPO Overview 3.0](#).

Accordingly, Complainant has provided evidence supporting its prima facie claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location."

The Panel finds that Complainant provided ample evidence to show that registration and use of the AGCO FINANCE trademarks long predate the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant's AGCO FINANCE trademarks and related products and services are widely known and recognized. Moreover, Respondent's impersonating emails confirm its knowledge of Complainant and its trademarks. Therefore, the Panel finds Respondent was aware of the AGCO FINANCE trademarks when it registered the Domain Name.

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Here, although the Domain Name does not resolve to an active website, emails were sent from the Domain Name impersonating Complainant's employee, on the pretext of reconciling banking information in order to attempt to divert payments from Complainant's customers to an account not operated by AGCO Finance AG. The record shows that the email addresses in the originating email (sent by Respondent) all use the <agcofinances.com> Domain Name format, but the website address appearing in the signature block of the email uses the <agcofinance.com> format, which is the legitimate website of AGCO Finance AG. Furthermore, the email address noted in the signature block uses Complainant's <agcofinance.com> domain name format in the email address provided. These emails also use other trademarks registered to Complainant, including AGCO and the AGCO triangle design mark. These emails, however, also use the address of the Respondent in the email footer.

The resulting confusion from such impersonation and/or phishing communications would cause damage to Complainant's reputation and goodwill, and interfere with Complainant's business activities. The use of a domain name for email phishing and impersonation/passing off shows Respondent's acts of bad faith, and is not rebutted by Respondent.

At the time of the Decision, the Domain Name redirects to an inactive webpage, which does not change the Panel's finding of Respondent's bad faith.

Finally, considering the distinctiveness and reputation of the AGCO FINANCE trademarks, the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good faith use, and particularly noting the Domain Name clearly targeted Complainant, the Panel finds that Respondent has registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Name <agcofinances.com> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: March 17, 2025