

ADMINISTRATIVE PANEL DECISION

Air Aroma EMEA B.V. v. Dave link

Case No. D2025-0843

1. The Parties

The Complainant is Air Aroma EMEA B.V., Kingdom of the Netherlands, represented by Legaltree, Netherlands (Kingdom of the).

The Respondent is Dave link, Kyiv, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <airaromaemeabv.com> (the “Disputed Domain Name”) is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 28, 2025. On February 28, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 3, 2025, 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 (Mr. Mo Aslam) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 3, 2025, 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 March 5, 2025.

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 March 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 31, 2025.

The Center appointed Michael D. Cover as the sole panelist in this matter on April 9, 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.

The Panel notes that the Respondent's address is in Ukraine, which is subject to an international conflict at the time of this Decision, which might give rise to difficulties with notification. Noting that the Respondent did cease using the Complainant's correspondence details after the Cease and Desist Letter sent on behalf of the Complainant on January 30, 2025 and that, as will be seen, the Panel is finding conclusively that the Disputed Domain Name has been registered and is being used in bad faith, the Panel has concluded that it is justified and correct in deciding to continue with the proceeding.

4. Factual Background

The Complainant is a limited liability company, incorporated under the Laws of the Netherlands. The Complainant is the European subsidiary of an Australian company, Air Aroma International.

The AIR AROMA trademarks, on which the Complaint is based, are owned by another Australian company, Air Aroma Research Pty Limited, which is also part of the same group as the Complainant and its parent company. The Complainant is authorized to use the AIR AROMA trademarks by Air Aroma Research Pty Limited and is also authorized by Air Aroma Research Pty Limited to file this Complaint.

Air Aroma Research Pty Limited is the proprietor of the following registered trademark:

International Trademark Registration No. 958332 AIR AROMA in Classes 3, 5, 9, 11 and 40 dated September 18, 2007.

The trademark AIR AROMA has also been registered in the European Union and the US for goods and services in Classes 3, 5, 9, 11 and 40, including fragrances and fragrant and aromatic oils.

The trademark AIR AROMA is also used as part of the company and trade name of the Complainant and is also incorporated in the domain name for its corporate website <air-aroma.com>.

The Disputed Domain Name was registered on September 28, 2024 and resolves to a website "www.airaromaaembv.com". The website displayed the Complainant's mark AIR AROMA and offered seemingly competing cosmetic and fragrance products. The Respondent had been using the postal address of the Complainant on its website but this was removed after the Complainant sent a cease-and-desist letter to the Respondent on January 30, 2025, which was not answered.

5. Parties' Contentions

A. Complainant

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

Identical or Confusingly Similar

Notably, the Complainant contends that the Disputed Domain Name is identical/ confusingly similar to the trademark AIR AROMA.

The Complainant states that the Disputed Domain Name comprises the trademark in its entirety. The Complainant submits that, where a trademark is incorporated in a disputed domain name in full, in general, this leads to the conclusion that the disputed domain name is identical or at least confusingly similar to the

invoked trademark and cites in support Section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), which states:

'While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.'

The Complainant then goes on to submit that, besides being confusingly similar the AIR AROMA trademark, the Disputed Domain Name is identical to the company/ trade name of the Complainant, Air Aroma EMEA BV and almost identical to the trademark owner's name, Air Aroma Research Pty Limited and the name of the mother company of that company and the Complainant, Air Aroma International.

The Complainant concludes that the Disputed Domain Name is confusingly similar with the trademark AIR AROMA.

Rights or Legitimate Interests

The Complainant submits that the Respondent lacks rights and/or legitimate interests in the Disputed Domain Name, noting that the Disputed Domain Name fully incorporates the AIR AROMA trademark, which has been in use by the Complainant and its mother company for many years and is registered as such. The Complainant states that the Complainant did not authorize the Respondent to use the AIR AROMA trademark in the Disputed Domain Name or otherwise. This, as such, notes the Complainant, leads to the conclusion that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name and cites in support *Compagnie Gervais Danone v. Duxpoint and Alejandro Gomez*, WIPO Case No. [D2008-1799](#).

The Complainant continues that the Respondent is not commonly known by the Disputed Domain Name and that, to the knowledge of the Complainant, the Respondent did not acquire any trademark or service rights and at least not prior to the registration of the AIR AROMA trademark.

The Complainant also states that the Disputed Domain Name misleadingly suggests being the domain name of the Complainant, whose company name is identical. The Complainant submits that the Respondent even tries to have the visitors to the website "www.airaromaemeabv.com" believe that they are visiting the original website of the Complainant, since the sign AIR AROMA is not only being used on the website for identical and similar products, namely fragrances but that the Respondent at least until recently was using the postal address of the Complainant on that website. The Complainant also states that the contact details of the Complainant remain in use by the Respondent in correspondence with potential customers.

The Complainant submits that, besides being trademark infringement, this activity by the Respondent amounts to identity fraud and that this cannot be considered fair use.

In fact, continues the Complainant, the Respondent does not suggest affiliation with the Complainant, the Respondent acts as if it were the Complainant.

The Complainant submits that the Respondent's use of the Disputed Domain Name is to divert Internet users who are looking for the website of the Complainant to the Respondent's website, where the Respondent misleadingly pretends to be the Complainant and that such use does not constitute bona fide use within the meaning of paragraph 4(c) of the Policy.

The Complainant concludes that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

Registered and Used in Bad Faith

The Complainant submits that the arguments already made in the Complaint already indicate that the Respondent has registered and used the Disputed Domain Name in bad faith and that the Respondent is taking unfair advantage of and is abusing the AIR AROMA trademark as well as the Complainant's company/trade name.

The Complainant submits that the fact that the Disputed Domain Name is identical or at least confusingly similar to the prior trademark AIR AROMA and that the Respondent has not been authorized to register the Disputed Domain Name (by the Complainant) already creates a presumption of bad faith. The Complainant continues that the use of false contact details on the website, while using the Disputed Domain Name that incorporates the trademark AIR AROMA and in correspondence with potential customers, being the contact details of the Complainant strongly supports the assumption of bad faith. The Complainant submits that the Respondent has neither used nor made demonstrable preparations to use the Disputed Domain Name in connection with a bona fide offering of goods or services.

The Complainant also states that the Respondent has clearly registered the Disputed Domain Name in order to have the public falsely believe that it is the Complainant or at least to create a false connection with the Complainant and that the Respondent would not have chosen to incorporate the trademark and company/trade name of the Complainant into the Disputed Domain Name unless it was intentionally seeking to create in the minds of consumers and professionals a false impression of actually being the Complainant and/or of an affiliation with, endorsement by or sponsorship by the Complainant. This, submits the Complainant, cannot constitute a bona fide offering of goods or services.

The Complainant states that, in view of the foregoing, the Respondent has registered and has used the Disputed Domain Name in bad faith.

The Remedy requested by the Complainant

The Complainant requests that the Panel decide that the Disputed Domain Name be transferred to the owner of the AIR AROMA trademark, Air Aroma Research Pty Limited, or, if that is not possible, that the Disputed Domain Name be transferred to the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions

6. Discussion and Findings

The Complainant must establish on the balance of probabilities that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; that the Respondent has no rights or legitimate interests in the Disputed Domain Name; and that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the AIR AROMA trademark, which the Complainant is authorized to use, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain

Name is confusingly similar to the AIR AROMA trademark, in which the Claimant has rights, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is also well established in prior UDRP Decisions that the applicable generic Top-Level-Domain (“gTLD”) is a standing requirement and is to be ignored in considering confusing similarity

Although the addition of other terms, here EMEA BV may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the Complainant, Panels have recognized that proving a respondent lacks rights or legitimate interests in a disputed domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

Prior UDRP panels have held that the use of a domain name for an illegitimate activity, here, impersonation/passing off, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Accordingly, the Respondent has not demonstrated, before notice of the dispute, use or demonstrable preparation to use the Disputed Domain Name in connection with a bona fide offering of goods or services, that the Respondent has been commonly known by the Disputed Domain Name or that the Respondent was making legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant’s trademark

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the panel to be present, shall be evidence of the registration and use of a disputed domain name in bad faith.

In the present case, the Panel notes that the Respondent has been using the Disputed Domain Name to disrupt the business of a competitor, the Complainant, and intentionally to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s AIR AROMA trademark. Having reviewed the record, the Panel finds the Respondent’s registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <airaromaemeabv.com> be transferred to the Complainant.

/Michael D. Cover/

Michael D. Cover

Sole Panelist

Date: April 23, 2025