

## **ADMINISTRATIVE PANEL DECISION**

Fédération AGIRC-ARRCO v. Rūdis Berzins

Case No. DEU2022-0038

### **1. The Parties**

The Complainant is Fédération AGIRC-ARRCO, France, represented by AARPI Scan Avocats, France.

The Respondent is Rūdis Berzins, Latvia.

### **2. The Domain Name, Registry and Registrar**

The Registry of the disputed domain name <cicas.eu> is the European Registry for Internet Domains ("EURid" or the "Registry"). The Registrar of the disputed domain name is Registrar.eu.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 24, 2022. On November 24, 2022, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On November 25, 2022, the Registry 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 Complainant on November 29, 2022 providing the registrant and contact information disclosed by the Registry, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 30, 2022.

The Center verified that the Complaint, together with the amended Complaint, satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the "ADR Rules") and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the "Supplemental Rules").

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 9, 2022. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was December 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 4, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on January 17, 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 ADR Rules, Paragraph B(5).

#### 4. Factual Background

The Complainant is Fédération AGIRC-ARRCO, a supplementary retirement institution, duly existing and organized under the laws of France. The Complainant is an institution providing compulsory complementary pension schemes for private sector employees in France.

Thirty million people rely on the AGIRC-ARRCO complementary retirement regime in France.

The Complainant has rights, *inter alia*, in the following trademarks:

French trademark CICAS RETRAITE (device) registration No. 4634513, registered on March 24, 2020 in International Class 36;

French trademark CICAS RETRAITE COMPLEMENTAIRE CICAS CENTRE D'INFORMATION CONSEIL ET ACCUEIL DES SALARIES (device) registration No. 3460451, registered on October 30, 2006 in International Classes 35, 36, 38, 41, and 43.

The Complainant has also registered the domain name <cicas.fr> (registration date: October 12, 2004).

The sign CICAS, which stands for “Centre d’Information et de Coordination de l’Action Sociale”, is used to designate an information, advice and reception center for employees which helps future retirees with compiling their supplementary pension file.

The disputed domain name was registered on November 15, 2021, and currently is not active.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to the Complainant's registered trademarks; that the Respondent has no rights or legitimate interests with respect to the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith.

##### B. Respondent

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

#### 6. Discussion and Findings

To succeed in its Complaint, the Complainant must show that the requirements of paragraph B(11)(d)(1) of the ADR Rules have been complied with. That paragraph reads as follows: “[I]n an ADR Proceeding where the Respondent is the holder of a .eu domain name registration in respect of which the Complaint was initiated, that:

- (i) The domain name is identical or confusingly similar to a name in respect of which a right is recognised or established by the national law of a Member State and/or European Union law and; either
- (ii) The domain name has been registered by the Respondent without rights or legitimate interest in the name; or
- (iii) The domain name has been registered or is being used in bad faith.”

In addition, paragraph B10(a) of the ADR Rules provides that:

“If a Party fails to comply with any of the time periods established by these ADR Rules or the Panel, the Panel shall proceed to a decision on the Complaint and may consider this failure to comply as grounds to accept the claims of the other Party.”

**A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law**

The Complainant has established rights in the CICAS RETRAITE and CICAS RETRAITE COMPLEMENTAIRE CICAS CENTRE D'INFORMATION CONSEIL ET ACCUEIL DES SALARIES trademarks registered in France.

The disputed domain name consists solely of the dominant feature of the Complainant's trademarks, *i.e.* CICAS.

The dominant feature of the Complainant's trademarks remains clearly recognizable within the disputed domain name.

Pursuant to section 1.7 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).<sup>1</sup> which states: “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.” In addition, the .eu Top-Level Domain is disregarded under the first element confusing similarity test. See section 1.11 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds the disputed domain name to be confusingly similar to the Complainant's trademarks in which the Complainant has rights.

The Complainant has, therefore, satisfied the requirements of the first element of paragraph B(11)(d)(1) of the ADR Rules.

**B. Rights or Legitimate Interests**

The Complainant has further asserted that the Respondent is not known by the disputed domain name and does not hold any rights or legitimate interests to the disputed domain name.

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent does not appear to be commonly known by the name “cicas” or by any similar name. The Respondent has no connection to or affiliation with the Complainant, and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademarks. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. The Panel also notes that the disputed domain name is not only confusing similar to the Complainant's trademark but it is also identical to the Complainant's domain name <cicas.fr>, which carries a risk of implied affiliation with the Complainant.

These assertions are not contradicted by the Respondent. Should the Respondent have rights or legitimate interests to the disputed domain name, the Panel assumes that it would have advised the Panel of the same. As no response was filed and the Complainant's *prima facie* case has not been rebutted, the Panel therefore accepts that the Respondent does not have rights or legitimate interests to the disputed domain name.

In the absence of any submission on the issue from the Respondent, the Complainant has satisfied the second element of paragraph B(11)(d)(1) of the ADR Rules.

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<sup>1</sup> Given the similarities between the ADR Rules and the Uniform Domain Name Dispute Resolution Policy (the “UDRP”), the Panel will refer to the “[WIPO Overview 3.0](#)” if relevant to this proceeding.

### **C. Registered or Used in Bad Faith**

The Complainant has sufficiently met the criteria for the second condition under the paragraph B(11)(d)(1) of the ADR Rules, and it is therefore unnecessary for the Complainant to also satisfy the third condition.

Furthermore, it is not necessary for the Panel to examine the Complainant's assertions of the Respondent's bad faith registration or use of the disputed domain name.

This Panel notes however that the Complainant has provided sufficient arguments to also indicate the Respondent's bad faith in registering and using the disputed domain name.

Specifically, it appears that the Respondent is currently not using the disputed domain name. Previously, however (at least on October 4, 2022), it was used to redirect Internet users to a website where adult content was displayed.

In addition, noting the confusing similarity between the disputed domain name and the Complainant's prior trademarks and domain name <cicas.fr>, and the fact that the contents of the website previously linked to the disputed domain name was in French (thus targeting the French-speaking public, namely those regions where the Complainant's trademarks and activity is most known), the Panel finds that the Respondent was most likely aware of the Complainant's trademarks and of the existence of the Complainant and its activity.

Finally, the Respondent has not responded to (nor denied) the assertions made by the Complainant in this proceeding.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith, and that consequently, the third condition of paragraph B(11)(d)(1) of the ADR Rules is fulfilled.

### **7. Decision**

For the foregoing reasons, in accordance with paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name <cicas.eu> be transferred to the Complainant.<sup>2</sup>

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: January 29, 2023

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<sup>2</sup> (i) The decision shall be implemented by the Registry within thirty(30)days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.

(ii) The remedy sought is transfer of the disputed domain name to the Complainant. As the Complainant is established in France, it satisfies the general eligibility criteria for registration of the disputed domain name set out in Article 3 of Regulation (EU) 2019/517.