

Panel Decision for dispute CAC-ADREU-008701

Case number CAC-ADREU-008701

Time of filing 2025-01-14 08:53:06

Domain names acfea.eu

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization Specialised Travel LTD

Respondent

Name Romain Pirotte

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

The Panel is not aware of any pending or decided legal proceedings related to the disputed domain name.

FACTUAL BACKGROUND

The Complainant is Specialised Travel Ltd, a UK-based travel agency.

The Complainant is the owner of a EUTM Registration "ACFEA" No. 004057543 registered in October 1, 2004 and duly renewed on September 27, 2024, designating the following services:

Class 39: Transportation of passengers; transportation of passengers by air; transportation of passengers by boat; transportation of passengers by bus; transportation of passengers by coach; transportation of passengers by land; transportation of passengers by rail; transportation of passengers by road; transportation of passenger's luggage; transportation of people; booking of tickets; sightseeing; transportation of goods including instruments.

Class 41: Entertainment services; theatre booking; booking of entertainment; concert performances; hire of musical instruments; management of artists and shows; organisation of shows.

Class 43: Accommodation services; room booking; travel agencies for booking accommodation.

The disputed domain name is <acfea.eu> registered on February 7, 2021. It resolves to a Pay-per-Click webpage.

The Complainant filed a Complaint on November 21, 2024, and amended the same on November 22, 2024.

A. COMPLAINANT

The Complainant claims that the disputed domain name violates its trademark rights, that the Respondent has no legitimate interest in the disputed domain name and that the same was filed and is used in bad faith.

The Complainant requests the transfer or, if impossible, the revocation of the disputed domain name.

B. RESPONDENT

The Respondent did not file any response to the complaint and was found in default on January 2, 2025.

DISCUSSION AND FINDINGS

The Panel is to decide, in view of the facts and arguments of the parties, whether the conditions of Article 4.4 of Reg. (EU) 2019/517 are satisfied to decide whether the disputed domain name should be transferred to the Complainant or not.

1) ON THE PRIOR RIGHTS

Pursuant to Article 4.4 of Reg. (EU) 2019/517, "A domain name may also be revoked, and where necessary subsequently transferred to another party, following an appropriate ADR or judicial procedure [...] where that name is identical or confusingly similar to a name in respect of which a right is established by Union or national law".

The Panel finds that the trademark rights vested in the name ACFEA claimed by the Complainant are substantiated.

The Complainant justifies that it owns a EUTM Registration "ACFEA" No. 004057543 registered in October 1, 2004 and duly renewed on September 27, 2024.

Consequently, the Panel finds that the Complainant demonstrated it has prior rights.

2) ON THE IDENTITY OR CONFUSINGLY SIMILARITY OF THE DISPUTED DOMAIN NAME

The Complainant's registered trademark ACFEA is entirely reproduced in the disputed domain name <acfea.eu>.

The addition of the Top-Level Domain ("eu") ".com" does not prevent a finding of identity.

The Panel finds therefore that the disputed domain name is identical to the Complainant's trademark and that the requirements of Article 4.4 of Reg. (EU) 2019/517 are satisfied.

3) ON THE LEGITIMATE INTEREST IN THE DISPUTED DOMAIN NAME

Article 4.4 of Reg. (EU) 2019/517: "A domain name may also be revoked, and where necessarily subsequently transferred to another party, following an appropriate ADR or judicial procedure [...] where it (a) has been registered by its holder without rights or legitimate interest in the name".

Pursuant to Section B (11) (e) of the ADR Rules, the legitimate interest condition is considered as fulfilled when:

Prior to any notice of an alternative dispute resolution procedure, the respondent has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;

b) the respondent has been commonly known by the domain name;

c) the respondent is making a legitimate and non-commercial or fair use of the domain name, without intend to mislead consumers or harm the reputation of the name on which a right is recognized.

It is the Panel's view that the overall burden of proof under the above provision rests with the Complainant, which is required to establish that the Respondent prima facie lacks any rights to, or legitimate interests in, the disputed domain name, and that if the Respondent fails to answer such case, the Complainant is deemed to have satisfied its burden of proof.

The Complainant has not developed any argument relating to the absence of the Respondent's legitimate interest.

The Respondent, being in default, has not presented any justification for holding the disputed domain name.

The Panel has been able to verify, in accordance to article 7 a) of the ADR Rules, that the disputed domain name does resolve to a Pay-per-Click webpage, dedicated to travel services, where the brand ACFEA does not appear anywhere.

This obvious absence of use of the name ACFEA on the Respondent's webpage shows that the latter does not make any commercial use of the said name in the course of trade and is not commonly known by the disputed domain name.

In view of the factual situation, the Panel finds that the Respondent does not appear to have any rights or legitimate interests in the disputed domain name.

The conditions of Article 4.4 of Reg. (EU) 2019/517 are therefore satisfied.

4) ON THE RESPONDENT'S BAD FAITH

Article 4.4 of Reg. (EU) 2019/517: "A domain name may also be revoked, and where necessarily subsequently transferred to another party, following an appropriate ADR or judicial procedure where it:

(b) has been registered or is being used in bad faith."

The Complainant has shown that its trademark ACFEA is registered in relation with services relating to tourism and travel organization.

The Panel observes that the disputed domain name resolves to a Pay-per-Click webpage displaying photos, texts and links related to tourism and travel services.

Such a use of a domain name that is identical to the Complainant's trademark, in relation to services that are identical to those claimed in the Complainant's trademark qualifies as an infringement thereof.

The Panel is thus satisfied that the disputed domain name was registered and is used in bad faith in the meaning of Article 4.4 b) of Reg. (EU) 2019/517.

5) TRANSFER OF THE DISPUTED DOMAIN NAME / ELIGIBILITY OF COMPLAINANT

The Complainant is a UK company. The UK is no longer a member to the European Union. The Complainant does not claim to have a domicile or place of business within the European Community. Therefore, the requirements for the requested transfer of the disputed domain name to the Complainant are not satisfied (Section B No.1 (b) (12) of the ADR Rules).

The Panel finds that the Complainant does not satisfies the general eligibility criteria for registration set out in Article 3 of Reg. (EU) 2019/517.

6) REVOCATION OF THE DISPUTED DOMAIN NAME

As the Complainant also requested the revocation of the disputed domain name in case the eligibility criteria set out in Article 3 of Reg. (EU) 2019/517 are not satisfied, the Panel hereby orders the revocation of the disputed domain name.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name <acfea.eu> be revoked.

PANELISTS

Name	William Lobelson
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DATE OF PANEL DECISION 2025-01-14

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: acfea.eu

II. Country of the Complainant: UK, country of the Respondent: France

Date of registration of the domain name: February 7, 2021

IV. Rights relied on by the Complainant (B(11)(f) ADR Rules) on which the Panel based its decision:

1. word trademark registered in EU, reg. No. 004057543, for the term ACFEA registered in October 1, 2004 and renewed on September 27, 2024 in respect of services in classes 39, 41, 43

V. Response submitted: No

VI. Domain name is identical to the protected right of the Complainant

VII. Rights or legitimate interests of the Respondent (B(11)(e) ADR Rules):

1. /No
2. Why: Domain name directs to PPC page where brand name not used.

VIII. Bad faith of the Respondent (B(11)(f) ADR Rules):

1. Yes
2. Why: Use of domain name in relation with services that are identical to those protected by Complainant's earlier mark (trademark infringement)

IX. Other substantial facts the Panel considers relevant:

X. Dispute Result: Revocation of the disputed domain name

XI. Procedural factors the Panel considers relevant:

XII. [If transfer to Complainant] Is Complainant eligible? No

