

## Panel Decision for dispute CAC-ADREU-008727

Case number CAC-ADREU-008727

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Domain names parcasterix.eu

### Case administrator

Olga Dvořáková (Case admin)

### Complainant

Organization Les Editions Albert René

### Complainant representative

Organization NAMESHIELD S.A.S.

### Respondent

Organization Michael M. Nelson

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 proceedings that are pending or decided and which relate to the disputed domain name.

### FACTUAL BACKGROUND

The Complainant is a French publishing house created in 1979. It owns the following trademark registrations:

- French trademark ASTERIX number 1378113, registered on 5 November 1986;
- European trademark ASTERIX number 1689749, registered on 1 April 1996;
- French trademark TOUTATIS PARC ASTERIX number 4827658, registered on 20 December 2021;
- International trademark ASTERIX number 1689749, registered on 4 July 2022; and
- International trademark ASTERIX et OBELIX number 373128, registered on 23 October 1970.

The Complainant also owns the domain names <asterix.com>, registered on 19 October 1995 and <parcasterix.com> registered on 17 January 1997.

The Complainant owns the French comic album series "Astérix". It grants licenses for derivative products and promotional operations, notably for the Parc Astérix near Paris.

The Respondent registered the disputed domain name, <parcasterix.eu> on 1 February 2025.

### A. COMPLAINANT

The Complainant states that the disputed domain name is confusingly similar to its trademarks and associated domain names. It states the disputed domain name incorporates its trademark ASTERIX in its entirety and says the addition of the French term "parc" ("park") refers to the amusement park of the Complainant and does not change the overall impression of the designation as being connected to the Complainant's trademark. The Complainant asserts that the addition of the top-level domain <.eu> does not change the overall impression that the disputed domain name is connected to the Complainant's trademark

The Complainant next contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that the Respondent is not known as the disputed domain name. The Complainant states that the Respondent is not

affiliated with, nor authorised by, the Complainant in any way and is not licensed or authorised to use the Complainant's trademark, or apply for registration of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The disputed domain name redirects to French content dedicated to the PARC ASTERIX with a fake promotional offer. The Complainant considers that the nature of the disputed domain name carries a risk of being perceived as potentially affiliated with the Complainant because for many years the Complainant has used the ASTERIX trademark specifically in connection with its amusement park.

The Complainant also asserts that the disputed domain name was registered and is being used in bad faith. The Complainant states it has had commercial use of its trademarks for more than 50 years, and with over 2.8 million visitors, and asserts the PARC ASTERIX is the second most visited park in France and, in 2022 the tenth most visited park in Europe.

The Complainant asserts that the Respondent was aware of the Complainant and the Complainant's ASTERIX trademark when it registered the disputed domain name which is confusingly similar to the Complainant's ASTERIX trademark. The Complainant argues that the addition of the French descriptive term "parc" in the disputed domain name evidences the Respondent's awareness of the Complainant and its business as the Complainant has been involved in the theme park business since 1989, that is 35 years before the disputed domain name was registered.

The Complainant claims that the Respondent's knowledge of the Complainant's ASTERIX trademark is also supported by the use of the disputed domain name, which resolves to the commercial website offering the services for PARC ASTERIX, which are competitive with the Complainant's services. It states that the Internet users would most likely consider that it is related to or associated with the Complainant and the Complainant's business. It claims that by using the disputed domain name the Respondent has intentionally attempted to attract for commercial gain, Internet users to Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's mark.

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## B. RESPONDENT

No Response was filed in these proceedings.

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## DISCUSSION AND FINDINGS

Under Article 4(4) of Regulation (EU) 2019/517 on the implementation and functioning of the .eu top-level domain names (**Regulation**), a domain name may 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, and where it:

- has been registered by its holder without rights or legitimate interest in the name; or
- has been registered or is being used in bad faith.

The Panel must decide a Complainant on the basis of the statements and documents submitted and in accordance with the Procedural Rules, see 11 (a) of the .eu Alternative Dispute Resolution Rules (**ADR Rules**). If a Party fails to comply with any time period established under the Rules, the Panel may consider this failure as grounds to accept the claims of the other party (ADR Rules, Paragraph B10).

To succeed in its Complaint, the Complainant must show that:

(1) 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

(2) 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.

(See Paragraph B11(d)(1) of the ADR Rules and Article 4 (4) of the Regulation.)

### **Identical or confusingly similar**

The Complainant has submitted evidence of its rights in ASTERIX mark. It holds trademark registrations in France and in the EU as detailed above.

The Complainant's trademark, ASTERIX, is the dominant element of the disputed domain name. The addition of the descriptive word "parc" is closely connected to the Complainant and its amusement park, Parc Asterix, and does not avoid a finding of confusing similarity.

It is well established that the top-level domain <.eu> does not add any distinctiveness to a domain name and can be disregarded when assessing whether the disputed domain name is confusingly similar to the Complainant's trademark.

The Panel finds that the first element of confusing similarity set out in Article 4(4) of the Regulation and Paragraph B11(d)(1)(i) of the ADR Rules is satisfied.

### **No rights or legitimate interest**

The Complainant has provided evidence of its French and EU trademark registrations for ASTERIX that predate the registration of the disputed domain name. The Panel accepts the Complainant's assertion that the Respondent is not affiliated with the Complainant, is not licensed to use the Complainant's trademark, and does not conduct business for the Complainant.

Panels deciding <.eu> disputes have adopted the same approach as adopted by UDRP panels: once the Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interest in the disputed domain name, the burden of proof shifts to the Respondent to show

that he has relevant rights. (See, for example, CinemaxX Holdings GmbH v Desmond Yen, CAC-ADREU-008634).

The Respondent has not filed a Response nor submitted any evidence to show he has any rights or a legitimate interest in the disputed domain name or that he is commonly known by that name. The Respondent has failed to discharge the burden of proof to show that he has any relevant rights or legitimate interests.

Taking the above factors into consideration, the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain name and the requirements of Paragraph B11(d)(1)(ii) of the ADR Rules and Article 4(4)(a) of the Regulation are satisfied.

#### Registered or used in bad faith

Given the Panel's finding that the Respondent lacks rights or a legitimate interest in the disputed domain name, it is not necessary for the Complainant to show bad faith registration or use by the Respondent. However, the Complainant has submitted relevant evidence and for completeness, the Panel will consider this aspect.

The Complainant's trademark ASTERIX has been registered since 1986, nearly forty years before the registration of the disputed domain name. The use of the word "parc" with the Complainant's ASTERIX mark indicates that the Respondent knew of the Complainant, its trademark, and business when he registered the disputed domain name. Internet users would most likely consider that the disputed domain name is connected with the Complainant and its business. The website connected to the disputed domain name is similar to the Complainant's legitimate website and offers services for PARC ASTERIX that compete with those of the Complainant.

The Panel finds the Respondent both registered and used the disputed domain name in bad faith for the purposes of Paragraph B11(d)(1)(iii) of the ADR Rules, and Article 4(4)(b) of the Regulation.

#### Eligibility Criteria

The Complainant seeks the transfer of the disputed domain name. 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 the Regulation and is entitled to request the transfer of the disputed domain name.

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#### DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name parcasterix.eu be transferred to the Complainant.

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#### PANELISTS

Name	Veronica Bailey
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DATE OF PANEL DECISION 2025-03-23

#### Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: <parcasterix.eu>

II. Country of the Complainant: France. Country of the Respondent: Germany.

III. Date of registration of the domain name: 1 February 2025.

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

- French trademark ASTERIX number 1378113, registered on 5 November 1986;
- European trademark ASTERIX number 1689749, registered on 1 April 1996; and
- French trademark TOUTATIS PARC ASTERIX number 4827658, registered on 20 December 2021.

V. Response submitted: No.

VI. Domain name is confusingly similar to the protected rights of the Complainant.

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

1. No
2. Why: The Complainant has provided evidence of its French and EU trademark registrations for ASTERIX that predate the registration of the disputed domain name. The Panel accepts the Complainant's assertion that the Respondent is not affiliated with the Complainant, is not licensed to use the Complainant's trademark and does not conduct business for the Complainant. The Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interest in the disputed domain name. The burden of proof shifts to the Respondent to show that he has relevant rights.

The Respondent has not filed a Response nor submitted any evidence to show he has any rights or a legitimate interest in the disputed domain name or that he is commonly known by that name. The Respondent has failed to discharge the burden of proof to show that he has any relevant rights or legitimate interests.

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

1. Yes

2. Why: The Complainant's trademark registration predates the registration of the disputed domain name by nearly forty years. The use of the word "parc" with the Complainant's ASTERIX mark indicates that the Respondent knew of the Complainant, its trademark and business when he registered the disputed domain name. Internet users would most likely consider that the disputed domain name is connected with the Complainant and its business. The website connected to the disputed domain name is similar to the Complainant's legitimate website and offers services for PARC ASTERIX that compete with those of the Complainant.

IX. Other substantial facts the Panel considers relevant: None.

X. Dispute Result: Transfer of the disputed domain name to the Complainant.

XI. Procedural factors the Panel considers relevant: None.

XII. Is Complainant eligible? Yes

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