

## **ADMINISTRATIVE PANEL DECISION**

Financiere de l'échiquier v. Sophie Denoyelle, Pharma  
Case No. D2022-3532

### **1. The Parties**

The Complainant is Financiere de l'Echiquier, France, represented by Novagraaf France, France.

The Respondent is Sophie Denoyelle, Pharma, France.

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

The disputed domain name <lfdepatrimoine.com> is registered with CloudFlare, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 23, 2022. On September 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 23, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on September 26, 2022 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 amended Complaint on September 26, 2022.

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 the Respondent of the Complaint, and the proceedings commenced on October 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 25, 2022.

The Center appointed Elise Dufour as the sole panelist in this matter on October 31, 2022. 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

The Complainant is Financiere de l'Echiquier, a French asset management company created on September 27, 1989. The Complainant is headquartered in France and manages EUR 14.5 billion. The Complainant is mentioned in numerous magazines and benefits of a certain notoriety in the field of wealth management services.

The Complainant is the owner of various trademarks, including the following:

- European Union Trade Mark, LFDE, No. 014088835 filed on May 18, 2015, and registered on September 23, 2015, in classes 35, 36, and 42.

The Complainant also owns the following domain name containing the trademark LFDE:

- <lfde.com> registered on September 15, 2016.

The disputed domain name was registered on August 23, 2022, and resolves to an error page.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that (i) the disputed domain name creates a highly overall impression with the prior rights owned by the Complainant; (ii) the Respondent has no rights or legitimate interests in the disputed domain name; and (iii) the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name.

(i) The Complainant claims that its distinctive trademark LFDE is entirely contained and clearly visible in the disputed domain name and the addition of the descriptive element "patrimoine" has no relevant impact in the confusing similarity assessment, since it has a mere descriptive meaning.

(ii) The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name: the Complainant has not licensed or otherwise permitted the Respondent to use its trademark LFDE. The Respondent is not commonly known by the disputed domain name. The Respondent could not have ignored the trademark LFDE, since it is a French leader in the field of wealth management services. Finally, the Respondent has never linked the disputed domain name to an active website since its creation, which proves the Respondent has no legitimate interest in owning the disputed domain name.

(iii) The Complainant claims that he is known to be a French leader in the field of wealth management services. For the Complainant, the fully reproduction of its trademark LFDE combined with the term "patrimoine" (which is the French word for heritage) cannot be a coincidence. Furthermore, the disputed domain name has been registered on August 23, 2022, while on August 22, 2022, a favorable UDRP decision was issued (*Financiere de l'Echiquier v. Sophie Denoyelle, Pharma*, WIPO Case No. [D2022-2371](#)) and ordered the transfer of the domain name <lfde-patrimoine.com>, registered by the same Respondent. The reservation of the disputed domain name which has been made one day after the decision regarding the domain <lfde-patrimoine.com> registered in the name of the same person, clearly indicates that the Respondent registered the disputed domain name in bad faith. Finally, the Complainant stresses that passive holding can also be evidence of bad faith use.

##### B. Respondent

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Complainant submitted evidence, which incontestably and conclusively establishes rights on the LFDE trademarks.

The disputed domain name is composed of the identical reproduction of the Complainant's trademark in its entirety, to which has been added the term "patrimoine".

The addition of the term "patrimoine" ("estate" or "heritage" in English) does not prevent a finding of confusingly similarity since the trademark remains recognizable within the disputed domain name. Indeed, where the relevant trademark is recognizable within the disputed domain name, the addition of other (descriptive) terms would not prevent a finding of confusing similarity under the first element (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

Thus, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and that the requirement of paragraph 4(a)(i) of the Policy is met.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a nonexclusive list of circumstances that indicate the Respondent's rights to or legitimate interests in the disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to and/or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

In that sense, the Complainant states that it has not licensed or otherwise permitted the Respondent to use the LFDE trademark in the disputed domain name, nor is there any sort of relationship between the Complainant and the Respondent.

Furthermore, the Complainant states that the Respondent is not making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue, inasmuch the disputed domain name resolves to an error page.

Where a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition does not constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Given the structure of the disputed domain name, the Panel considers that it carries a risk of implied affiliation.

Given these circumstances, the Panel finds that the second element of paragraph 4(a)(ii) of the Policy is satisfied.

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

The Respondent's bad faith in registering the disputed domain name is made clear by the incorporation of the whole LFDE trademark.

Indeed, the Panel finds that it is inconceivable that the Respondent was unaware of the Complainant and its trademark rights when it registered the disputed domain name, as it includes the Complainant's trademark in its entirety to which the term "patrimoine" directly referring to the Complainant's activity is added. In addition, for the Panel, the Respondent could not ignore the Complainant and its activity, since it is a French leader in the field of wealth management services.

Furthermore, the fact that the disputed domain name has been registered on August 23, 2022 one day after a favorable UDRP decision and ordered the transfer of the domain name <lfde-patrimoine.com> registered by the same Respondent clearly indicates that the Respondent registered this disputed domain name in bad faith.

As to the use of the disputed domain name in bad faith, the Panel has evidenced that the disputed domain name resolves to an error page. This constitutes a passive holding that would not prevent a finding of bad faith.

The lack of use of the disputed domain name, and the absence of responses of the Respondent provide no basis for the Panel to believe that the disputed domain name might conceivably be put to good faith use.

Considering all of the above, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate.

Consequently, the Panel finds that the disputed domain name was registered and used in bad faith, so that the third and final element of the Policy is met.

### **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 <lfdepatrimoine.com> be transferred to the Complainant.

*/Elise Dufour/*

**Elise Dufour**

Sole Panelist

Date: November 14, 2022