

ADMINISTRATIVE PANEL DECISION

Areva S.A. v. Name Redacted

Case No. D2023-2810

1. The Parties

The Complainant is Areva S.A., France, represented by CSC Digital Brand Services AB, Sweden.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <areva-france.com> is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 30, 2023. On July 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 6, 2023, 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 (REDACTED FOR PRIVACY, 1&1 Internet Limited) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 10, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

The Registrar also indicated that the language of the registration agreement is French. On July 10, 2023, the Center sent an email communication to the Parties in both French and English inviting the Complainant to submit satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceedings should be in English; or submit the Complaint translated into French; or submit a request for English to be the language of the administrative proceedings.

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

The Complainant filed an amended Complaint on July 12, 2023 in which it requested that English be the language of the proceedings. The Respondent did not comment on the language of the proceedings.

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 July 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 17, 2023.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on September 5, 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 Rules, paragraph 7.

4. Factual Background

The following facts are based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant is a French multinational group specializing in nuclear power and renewable energy.

The Complainant is the owner of the following trade mark registrations in the term AREVA:

- European Union Trade Mark AREVA No. 002478840, registered on October 29, 2004 and;
- International Trade Mark AREVA No. 783282, registered on November 28, 2001.

The Complainant is also the owner of the domain name <areva.com>.

The Respondent registered the disputed domain name using the corporate identity of the Complainant.

The disputed domain name was registered on July 27, 2022, and does not point to an active website but it was used to create email addresses and facilitate fraudulent activities impersonating the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the AREVA trade mark in which the Complainant has rights as the disputed domain name incorporates the exact AREVA trade mark with the addition of a hyphen "-" and the term "france" after the AREVA trade mark and this does not prevent the likelihood of confusion between the disputed domain name and the Complainant's trade mark.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant contends that the Respondent is not sponsored by or affiliated with the Complainant in any way. The Complainant represents that it has not licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant's trade mark. In addition, the Complainant asserts that the Respondent is not commonly known by the disputed domain name and that the use by the Respondent of the Complainant's corporate name to register the disputed domain name is part of the Respondent's effort to pass itself off as the Complainant and to use the disputed domain name to facilitate fraudulent activities and this cannot be considered *bona fide*, legitimate or fair.

The Complainant contends that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trade mark. The Complainant also alleges that the Respondent is using the disputed domain name in bad faith as the Complainant provided evidence showing that the disputed domain name was used to send fraudulent emails impersonating the Complainant. The Complainant also points to past decisions under the Policy where the Respondent was the respondent and where the respective panels ordered a transfer of the respective domain names. The Complainant thus considers that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of Proceedings

Pursuant to paragraph 11(a) of the Rules, "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding".

In the present case, the Registration Agreement appears to be in French as confirmed by the Registrar and the Complaint was submitted in English.

The Complainant submitted arguments in order to request that the Proceedings be in English (at least that the Complaint be accepted in English).

The Center formally notified the Respondent of the Complaint in French and in English.

The Respondent did not comment or respond. The Respondent was given an opportunity to comment on or to oppose the Complainant's arguments.

The Panel is satisfied that the Respondent reasonably understands the nature of the Proceedings and finds that to request the Complainant to translate the Complaint would cause potential unfairness and unwarranted costs and delay in light of the overall circumstances including (i) the fact that the Respondent used the disputed domain name to send fraudulent emails drafted in the English language, (ii) the complete lack of reaction of the Respondent after having been given a fair chance to comment and (iii) the fact that the disputed domain name was registered using the corporate name of the Complainant in an effort to fraudulently mislead Internet users. In light of these circumstances, the Panel finds that it would not be unfair to proceed in a language other than that of the Registration Agreement and the Panel is satisfied that the Language of Proceedings should be English.

6.2 Substantive Analysis

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 trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the AREVA trade mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of another term here, “-france”, 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 trade marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

While 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 domain name may result in the often impossible 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 disputed domain name. 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 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.

Here, the Complainant has stated that it has not licensed or otherwise authorized the Respondent to make any use of its trade mark AREVA.

In addition, there is no indication that the Respondent is known by the disputed domain name.

Further, the use of the disputed domain name to fraudulently impersonate the Complainant cannot qualify as either use of the disputed domain name (or demonstrable plans for such use) with a *bona fide* offering or a legitimate noncommercial fair use.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, 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.

Based on the available record, 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 domain name in bad faith.

The disputed domain name reproduces the exact AREVA trade mark of the Complainant and this cannot be a coincidence given the overall circumstances of the present case including: (i) the reputation of the Complainant's AREVA trade mark, (ii) the fact that the disputed domain name was registered relatively recently and many years after the registration of the trade mark AREVA, (iii) the choice of the term "-france" added after the AREVA trade mark in the disputed domain name and (iv) the use by the Respondent of the corporate identity of the Complainant to register the disputed domain name.

As for use of the disputed domain name, the past use of the disputed domain name to send phishing emails impersonating the Complainant is very persuasive and clear evidence of the Respondent's bad faith use of the disputed domain name and typically the type of use the Policy is designed to tackle.

On this basis, the Panel finds that, as per paragraph 4(b)(iv) of the Policy, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Further, the Complainant has provided details of past decisions under the Policy where the Respondent was the respondent and where the respective panels ordered a transfer of the respective domain names.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy and the third element of the Policy has thus been established.

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, <areva-france.com>, be transferred to the Complainant.

/Vincent Denoyelle/

Vincent Denoyelle

Sole Panelist

Date: September 19, 2023