

ADMINISTRATIVE PANEL DECISION

WMF GmbH v. Gruesse freundlichen
Case No. D2023-3291

1. The Parties

The Complainant is WMF GmbH, Germany, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Gruesse freundlichen, United States of America.

2. The Domain Name and Registrar

The disputed domain name <wmfgroups.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 31, 2023. On August 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 1, 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 name of the Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 8, 2023, 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 August 9, 2023.

The Center verified that 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 August 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 31, 2023.

The Center appointed Daniel Kraus as the sole panelist in this matter on September 7, 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

WMF GmbH (“the Complainant”) is a subsidiary of Groupe SEB, a 160 years old consortium that produces small kitchen appliances and cookware. It specializes in consumer products, coffee machines for the professional sector and equipment for hotels and restaurants. WMF was founded in 1853 and became a subsidiary of Groupe SEB in 2016. It counts around 6,000 employees worldwide at 20 locations and owns around 350 retail stores. Its products are sold in more than 120 countries. It has a strong presence on the Internet and on social media. The Complainant is the owner of trademark registrations across various jurisdictions, in particular the following:

- International registration 1098371 WMF GROUP (figurative) of April 21, 2011, in classes 7,8,9, 11, 14, 21, and 35;
- German registration 3020100681063 WMF GROUP (figurative) of March 10, 2011, in classes 7, 8, 9, 11,14, 21, and 35;
- United States of America Registration 2831618 WMF of April 13, 2004, in class 11.

The Respondent registered the disputed domain name on March 1, 2023, significantly after the Complainant’s trademark registrations. The disputed domain does not resolve to an active page. Historically, the Respondent was using the disputed domain name to direct Internet users to a website featuring links to third-party websites, some of which directly competed with the Complainant’s business, and to carry out a phishing scheme.

5. Parties’ Contentions

A. The Complainant

The Complainant first contends that the disputed domain name is identical or confusingly similar to a trademark in which it has rights. In particular, the second level domain of the disputed domain name consists solely of a pluralized version of the Complainant’s WMF GROUP trademark, resulting in a domain name that is identical to the Complainant’s WMF GROUP trademark and thus meeting the requirements under paragraph 4(a)(i) of the Policy. Additionally, the Respondent’s previous use of the disputed domain name contributes to the confusion. The Respondent was using the disputed domain name to direct Internet users to a website which featured links to third-party websites, some of which directly competed with the Complainant’s business, and was using the disputed domain name to carry out a phishing scheme, which suggests that the Respondent intended the disputed domain name to be confusingly similar to the Complainant’s trademark as a means of furthering consumer confusion.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not sponsored by or affiliated with the Complainant in any way. Nor has the Complainant given the Respondent permission to use the Complainant’s trademarks in any manner, including in domain names. Furthermore, the Complainant has not licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant’s trademark. Besides, the Respondent is not commonly known by the disputed domain name. In creating the impression that the Respondent’s website is one that is authorized and administered by the Complainant, the Respondent’s purpose is to fool unsuspecting visitors into divulging their personal information by sending fraudulent emails from an address based on the disputed domain name to the Complainant’s customers and requesting payment. Thus, the Respondent seeks to take advantage of the fame of the Complainant’s trademarks and the trust and goodwill that the Complainant has fostered among consumers to, at minimum, illegitimately

increase traffic to the Respondent's website for personal gain, and at worst, "phish" personal information from the Complainant's customers.

Historically, the Respondent was using the disputed domain name to direct Internet users to a website featuring links to third-party websites, some of which directly competed with the Complainant's business. Presumably, the Respondent received pay-per-click fees from the linked websites that are listed at the disputed domain name's website.

At the day of filing the Complaint, the Respondent was using the disputed domain name to direct Internet users to a website that resolves to a blank page and lacks content. The Respondent has failed to make use of this disputed domain name's website and has not demonstrated any attempt to make legitimate use of the disputed domain name and website. All these elements evidence a lack of rights or legitimate interests in the disputed domain name.

Finally, the Complainant argues that the disputed domain name was registered and is being used in bad faith. By registering a domain name that incorporates the WMF GROUP trademark in its entirety, the Respondent has created a domain name that is confusingly similar to the Complainant's trademark, as well as its <wmf.com> domain name. As such, the Complainant contends that the Respondent has demonstrated a knowledge of and familiarity with the Complainant's brand and business. Furthermore, the fact that the Respondent has launched a phishing attack posing as the Complainant and contacting the Complainant's customers, likely for financial gain, is also a demonstration of the bad faith of the Respondent in registering and using the disputed domain name.

B. The Respondent

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

6. Discussion and Findings

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests with respect to the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint "[...] on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

The Complainant has shown that it has trademark rights in the trademark WMF GROUP. The disputed domain name incorporates the entirety of the Complainant's trademark, and simply adds the letter "s". This addition does not prevent a finding of confusing similarity, as the mark is recognizable in the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.9).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

The Respondent has no rights on the disputed domain name. The Respondent is not sponsored by or affiliated with the Complainant in any way. Nor has the Complainant given the Respondent permission to use the Complainant's trademarks in any manner, including in domain names. Furthermore, the Complainant has not licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant's trademark. In such a situation, "no actual or contemplated *bona fide* or legitimate use of the disputed domain name could reasonably be claimed." See *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#).

The Respondent does not have any legitimate interests in the use of the disputed domain name. The use of the disputed domain name, presumably for financial gain, clearly fails to constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. In particular, UDRP panels have categorically held that the use of a domain name for illegal activity, in particular phishing, can never confer rights or legitimate interests on a respondent.

Same is true for the former use that was made by the Respondent of the disputed domain name, for pay-per-click links. Prior UDRP decisions have consistently held that respondents that monetize domain names using pay-per-click links have not made a *bona fide* offering of goods or services that would give rise to rights or legitimate interests in a disputed domain name. As such, the Respondent was not using the disputed domain name to provide a *bona fide* offering of goods or services as allowed under Policy, nor a legitimate noncommercial or fair use as allowed under Policy.

Finally, the disputed domain name currently directs Internet users to a website that resolves to a blank page and lacks content. The Respondent has hence failed to make use of this disputed domain name's website and has not demonstrated any attempt to make legitimate use of the disputed domain name and website, which evidences a lack of rights or legitimate interests in the disputed domain name, as confirmed by numerous past UDRP panels, such as *Philip Morris USA Inc. v. Muhammad Faisal*, WIPO Case No. [D2016-0621](#).

C. Registered and Used in Bad Faith

The Complainant convincingly establishes that the disputed domain name was registered and is being used in bad faith. In light of the facts set forth within its Complaint, it is not possible to conceive that the Respondent would have been unaware of the Complainant's brands at the time the disputed domain name was registered.

Further, the fact that the Respondent has sent fraudulent emails from the disputed domain name for phishing expeditions, masquerading itself as the Complainant in an attempt to solicit sensitive, financial information from unsuspecting people certainly constitute fraud, which must be considered bad faith registration and use of the disputed domain name. Finally, the fact that the disputed domain name, at the time of the Complaint was filed, resolved to an inactive site and was not being used does not in firm the bad faith use of the disputed domain name.

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, <wmfgroups.com>, be transferred to the Complainant.

/Daniel Kraus/

Daniel Kraus

Sole Panelist

Date: September 21, 2023