

ADMINISTRATIVE PANEL DECISION

Eurelec Trading SC v. Ngwa derick, SWIZZY YO, eurelectradings.com
Case No. D2023-3824

1. The Parties

The Complainant is Eurelec Trading SC, Belgium, represented by Fieldfisher Belgium, Belgium.

The Respondents are Ngwa derick, United States of America and SWIZZY YO, eurelectradings.com, Belgium.

2. The Domain Names and Registrars

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

The disputed domain name < eurelectradings.com> is registered with HOSTINGER operations, UAB (the “Second Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2023. On September 14, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On September 14, 2023, the First Registrar and on September 15, 2023, the Second Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Unknown/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 September 18, 2023, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on September 22, 2023.

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 Respondents of the Complaint, and the proceedings commenced on September 29, 2023. On October 2, 2023, a third party informed the Center that it received the Center's Written Notice but no-one in their building knew of "Ngwa derick". In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on October 24, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on October 27, 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 Complainant is a Belgian company operating as a price negotiation and purchasing center created by the French E. Leclerc group and the German Rewe group. It is responsible for negotiating with the international food industry and seeking operational synergies.

The Complainant has proven to be the owner of the EURELEC and EURELEC TRADING trademarks, which enjoy protection through several registrations.

The Complainant is, *inter alia*, the owner of:

- United Kingdom trademark EURELEC, registration number UK00915610546, registered on November 9, 2016;
- German trademark EURELEC TRADING, registration number 302016019105, registered on October 13, 2016;
- European Union trademark EURELEC TRADING, registration number 015606668, registered on November 9, 2016.

The Complainant is also the owner of the domain names <eurelec-trading.eu> and <eurelec-trading.be>, registered on June 16, 2016, and December 15, 2016, respectively.

The disputed domain names <eurelectradings.com> and <eurelectradingltd.com> were registered on July 16, 2023, and February 10, 2023, respectively.

The disputed domain names are not reachable, whereas it appears that they previously resolved to two websites depicting ATV/UTV vehicles. According to the evidence provided by the Complainant, the disputed domain name <eurelectradings.com> was used in connection with the sending of email communications impersonating the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the EURELEC and EURELEC TRADING trademarks, that the Respondents have no rights or legitimate interests in respect of the disputed domain names, and that the disputed domain names have been registered and are being used in bad faith.

Regarding the Respondents' identity, the Complainant has requested a consolidation of multiple disputed domain names and the Respondents. In support of the above request, the Complainant claims that:

1. both Respondents are related, to the extent that a sufficient unity of interest exists such that they may essentially be treated as a single domain name holder for the purposes of Policy paragraph 3(c) of the Rules;
2. the names and addresses given for the purpose of registering the disputed domain names are fake and false contact information;
3. the content of the websites (previously) associated with the disputed domain names is the same, namely both websites displayed images of ATVs/UTV vehicles;
4. the contact telephone number displayed on the websites previously linked to the disputed domain names is the same;
5. both disputed domain names target the Complainant's trademarks; and
6. consolidation of proceedings would be fair and equitable to all parties.

B. Respondent

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

6. Discussion and Findings

6.1. Consolidation of Multiple Respondents

According to the registration information verified by the Registrars, the disputed domain names were registered with different registrant details. The Complainant asserts however that the disputed domain names were registered by the same domain name holder, or are at least under common control. In accordance with the Rules, paragraph 3(c), a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. Although the names of the registrants of the disputed domain names are different, the Panel, based on the evidence available, and based on the fact that neither of the Respondents denied the Complainant's claims, finds that the disputed domain names identified in the Complaint, on the balance of probabilities, are registered by the same domain name holder or are at least under common control. Particularly relevant to this conclusion the fact that the contact telephone numbers displayed on the websites previously linked to the disputed domain names were the same. As observed by the Complainant, if the disputed domain names were not connected to each other, they would not bear the same telephone number, which would inevitably lead to the same person. The Panel, therefore, concludes in the circumstances of this case that consolidation would be fair and equitable to all the Parties and procedurally efficient, and therefore accepts the Complainant's request to address the disputed domain names in one case under the Rules, paragraphs 10(e) and 3(c). Accordingly, the Respondents will be collectively referred to as the "Respondent" hereinafter.

6.2. Substantive Issues

In order for the Complainant to obtain a transfer of the disputed domain names, paragraph 4(a) of the Policy requires that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain names are 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 in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established rights in the EURELEC and EURELECTRADING trademarks. Here the disputed domain names incorporate the Complainant's trademark in their entirety, respectively adding the letter "s" and "LTD", the latter presumably an abbreviation for Limited.

This Panel agrees with the Complainant's view that the EURELEC and EURELECTRADING trademarks are clearly recognizable and that the addition of the other terms do not avoid a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element". Furthermore, the applicable generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain names. The Respondent does not appear to be commonly known by the name "eurelectrading", or by any similar name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain names, nor any use in connection with a *bona fide* offering of goods or services. In fact, it appears that the Respondent listed the Complainant's previous corporate address on the websites connected to the disputed domain names and is using the disputed domain name <eurelectradings.com> to impersonate the Complainant. This is neither a *bona fide* offering nor a legitimate noncommercial or fair use within the meaning of the Policy. The Respondent has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain names.

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel, on the basis of the evidence presented, finds that the disputed domain names were registered and have been used in bad faith.

The facts that the disputed domain names were registered several years after the Complainant had registered and started using its trademarks and domain names; that the Respondent used the Complainant's previous physical address for the registration of one of the disputed domain names; and that at least one of the disputed domain names has been used in connection with the sending of email communications impersonating the Complainant, all combine to build a strong inference of the Respondent's awareness of the Complainant's trademark when registering the disputed domain names.

Consequently, the Panel finds that the Respondent knew of the Complainant's trademark and intentionally intended to create an association with the Complainant and its business at the time of registration of the disputed domain names.

The Panel also agrees with the Complainant's assertions that the Respondent's use of the disputed domain names to impersonate the Complainant and the use of the disputed domain name <eurelectradings.com> in connection to the sending of email communications impersonating the Complainant is clear evidence of bad faith registration and use.

Further inference of bad faith registration and use of the disputed domain names, in context of the above, is given by the activation of a privacy protection service, and also that the Respondent apparently provided incorrect, or possibly even false, details of its contact information to the Registrar.

This last fact is supported by a) the documents provided by the Complainant showing that there is no business entity at the addresses provided by the Respondent, and indeed the address indicated for the registration of the disputed domain name <eurelectradings.com> is the Complainant's previous address; and b) a communication sent by a third party to the Center on October 2, 2023, stating that for the registration of the disputed domain name <eurelectradingltd.com> the Respondent, without any authorization, provided the address of this third party, which has also declared that at their address there is no business and/or physical person with the Respondent's name. In addition, the current non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith.

Therefore, the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

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 names, <eurelectradingltd.com> and <eurelectradings.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: November 7, 2023