

## **ADMINISTRATIVE PANEL DECISION**

Relais d'or centrale v. jean marc Nouet

Case No. D2023-4366

### **1. The Parties**

The Complainant is Relais d'or centrale, France, represented by Clairmont Novus Avocats, France.

The Respondent is jean marc Nouet, France.

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

The disputed domain name <relaisdor-centrale.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 October 20, 2023. On October 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 23, 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 (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 October 30, 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 October 30, 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 Respondent of the Complaint, and the proceedings commenced on November 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 4, 2023.

The Center appointed Alexandre Nappey as the sole panelist in this matter on December 13, 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 the French company Relais D'or Centrale that belongs to the group Pomona, registered under the laws of France under No. 476 980 321.

Pomona group is widely known as a leading company in the field of food distribution to professionals and restaurants.

Relais D'or Centrale is specialized in ice cream, frozen foods, and fresh products.

The Complainant is the owner of several trademarks protected in many countries worldwide and particularly in France, among which:

- French figurative trademark registration RELAIS D'OR MIKO filed on March 30, 1998 and registered on September 11, 1998, in classes 29, 30, 35, 39, and 43 and registered under No. 98726080, duly renewed;
- French verbal trademark registration RELAIS D'OR, filed on March 2, 2007 and registered on September 7, 2007, in classes 29, 30, 31, 35, 39, and 43 and registered under No. 3485612, duly renewed.

Besides, the Complainant registered numerous domain names to promote its activity and especially the domain name <relaisdor.fr> registered on September 16, 1998.

The disputed domain name was registered on August 2, 2023. The Complainant tried to send a formal notice on August 17, 2023, through the registrar/hosting provider online facilities, however it never got any reply.

At the time of filing the Complaint and when drafting the present Decision, the disputed domain name is pointing to a parking page displaying commercial Pay-Per-Click ("PPC") links.

The Complainant seeks the transfer of the Domain Name.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical to the Complainant's trade name Relais D'or Centrale. The only difference is the addition of a hyphen "-" between "relaisdor" and "centrale". The disputed domain name is also confusingly similar to the Complainant's trademarks RELAIS D'OR and to the Complainant's domain name <relaisdor.fr>. The only difference is the word "centrale", which is included in the Complainant's trade name but not in the trademarks and in the domain name. This word does not avoid a finding of confusing similarity.

The Complainant claims that the Respondent has no rights nor legitimate interests in respect of the disputed domain name, since there is no relationship between the Complainant and the Respondent. No authorization or license has been granted by the Complainant to the holder of the disputed domain name to use its trademarks, company name, domain name and other distinctive signs of the company Relais D'or Centrale, and the Respondent is not commonly known under the name Relais D'or or Relais D'or Centrale.

According to the Complainant, it is highly likely that the Respondent knew of the Complainant's prior intellectual property rights when he registered the disputed domain name. Registration of the disputed domain name by the Respondent, who has no connection with the Complainant strongly supports registration in bad faith, and finally the Complainant has sent a formal notice to the Respondent to request a transfer of the litigious domain name, but no response has been given.

## **B. Respondent**

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

## **6. Discussion and Findings**

Notwithstanding the default of the Respondent, the Complainant has the burden of proof to make its case in accordance with paragraph 4(a) of the Policy, and to demonstrate that:

- (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 in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

However, under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

Having considered the Parties' submissions, the Policy, the Rules, the Supplemental Rules and applicable law, the Panel's findings on each of the above-mentioned elements are the following.

### **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 trademark 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 trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms here, the word "centrale" which identifies the Complainant's business name, 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 trademark 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.

Although 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 difficult 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 domain name (although the burden of proof always remains on the complainant). 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 available 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.

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.

In the present case, the Panel considers that all cumulative circumstances of this case point to bad faith registration and use of the disputed domain name:

- (i) the disputed domain name incorporates the RELAIS D’OR trademark in its entirety, adding the term “centrale”, which is related to the Complainant’s business name;
- (ii) according to the evidence provided by the Complainant, the disputed domain name is used to resolve to a parked website, and various PPC links to third party’s websites are displayed including some links related to the Complainant’s activities. In the Panel’s view, such activity of itself constitutes registration and use of the disputed domain name in bad faith under paragraph 4(b)(iv) of the Policy; and
- (iii) the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name, and has not come forward to deny the Complainant’s assertions of bad faith, choosing not to reply to the cease-and-desist letter or to the Complaint.

Based on the available record, the Panel finds that the Complainant has established the third element 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 name <relaisdor-centrale.com> be transferred to the Complainant.

/Alexandre Nappey/

**Alexandre Nappey**

Sole Panelist

Date: December 27, 2023