

ADMINISTRATIVE PANEL DECISION

Comité National pour la Sécurité des Usagers de l'Electricité (CONSUEL) v.
Milen Radumilo
Case No. D2023-5308

1. The Parties

The Complainant is Comité National pour la Sécurité des Usagers de l'Electricité (CONSUEL), France, represented by Coblence Avocats, France.

The Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <consuel.pro> is registered with Communigal Communications Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 21, 2023. On December 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 1, 2024, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 2, 2024, 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 amendment to the Complaint on January 3, 2024.

The Center verified that the Complaint together with the amendment to the 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 January 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 30, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on February 5, 2024. 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 non-profit association established since 2004 aiming at promoting the professional quality of electrical contractors and encourage them to carry out self-inspection of their work in accordance with regulations and standards before the installations are energized.

The Complainant owns trademark registrations for CONSUEL, including the French trademark registration No. 4690134, CONSUEL (design), filed on October 9, 2020, and registered on December 16, 2022, for goods and services in international classes 9, 11, 16, 35, 38, 41 and 42.

The Complainant also owns domain name registrations for CONSUEL, including <consuel.com> registered on February 25, 1999, and <consuel.fr> registered on December 9, 2008.

The disputed domain name was registered on November 29, 2023, and leads to a parking page with pay-per-click (“PPC”) links, including a link related to the Complainant’s business, namely electricity.

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.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the disputed domain name:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) 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.

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.

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

The generic Top-Level Domain (“gTLD”) “.pro” is disregarded in the case, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#), see also [WIPO Overview 3.0](#), section 1.11.1).

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.

On the contrary, the disputed domain name was used to host a parked page with PPC links. The Panel finds that it is not unlikely that the Respondent received PPC fees from the linked websites and used the disputed domain name for its own commercial gain. The use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links mislead Internet users and trade off the complainant’s trademark (*Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#); [WIPO Overview 3.0](#), section 2.9).

Furthermore, there is no evidence on record giving rise to any rights or legitimate interests in the disputed domain name on the part of the Respondent within the meaning of paragraphs 4(c)(ii) and 4(c)(iii) of the Policy.

In addition, the nature of the disputed domain name, consisting of the Complainant’s trademark in its entirety carries a risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1).

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.

Because the CONSUEL mark had been used since 2004 and registered before the disputed domain name registration, the Panel finds it more likely than not that the Respondent had the Complainant's mark in mind when registering the disputed domain name.

Moreover, the reproduction in its entirety of the Complainant's mark in the disputed domain name, reinforces the notion that the Respondent was aware of and intentionally targeted the Complainant in an attempt to confuse Internet users who were expecting to find the Complainant's website.

As regards bad faith use, the disputed domain name directs Internet users to a page displaying links to third-party sites, which suggests that, presumably, the Respondent received PPC fees from the linked websites that were listed thereon. It has been recognized that such use of another's trademark to generate revenue from Internet advertising can constitute registration and use in bad faith (*McDonald's Corporation v. ZusCom*, WIPO Case No. [D2007-1353](#); *Volkswagen Aktiengesellschaft v. Robert Brodi*, WIPO Case No. [D2015-0299](#); *SAP SE v. Domains by Proxy, LLC / Kamal Karmakar*, WIPO Case No. [D2016-2497](#); [WIPO Overview 3.0](#), section 3.5).

This, in view of the finding that the Respondent has no rights to or legitimate interests in the disputed domain name, and in the circumstances of the case, affirms the bad faith (*Aygaz Anonim Şirketi v. Arthur Cain*, WIPO Case No. [D2014-1206](#); [WIPO Overview 3.0](#), section 3.1).

The Panel further notes that the Respondent has been involved in several prior UDRP disputes. This indicates the Respondent's pattern of bad faith and further supports a finding of bad faith in this case.

Under these circumstances and on this record, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith.

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 <consuel.pro> be transferred to the Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: February 19, 2024