

ADMINISTRATIVE PANEL DECISION

Holding Benjamin et Edmond de Rothschild, Pregny Société Anonyme v.
Timothy M Franklin fdgdf, Sambo
Case No. DCC2023-0011

1. The Parties

The Complainant is Holding Benjamin et Edmond de Rothschild, Pregny Société Anonyme, Switzerland, represented by OX Avocats, France.

The Respondent is Timothy M Franklin fdgdf, Sambo, United States of America.

2. The Domain Names and Registrars

The disputed domain names <edmond-de-rothschild.cc> and <edmondderothschild.cc> are registered with Gname.com Pte. Ltd.

The disputed domain names <edmond-de-rothschild.co> and <edmondderothschild.co> are registered with Dynadot, LLC.

The disputed domain names the subject of this proceeding are collectively referred to as (the “Domain Names”) in this decision.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 2, 2023. On August 4, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Domain Names. On August 4, 2023, the Registrar Dynadot, LLC transmitted by email to the Center its verification responses disclosing registrant and contact information for the Domain Names registered with it which differed from the named Respondent (UNKNOWN) and contact information in the Complaint. On August 7, 2023, the Registrar Gname.com Pte. Ltd. transmitted by email to the Center its verification responses disclosing registrant and contact information for the Domain Names registered with it which differed from the named Respondent (UNKNOWN) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 16, 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 17, 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 August 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 14, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on October 12, 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 Swiss company, part of the broader Edmond de Rothschild group, that has since 1953 provided international banking and related financial services across a broad range of jurisdictions. The Complainant has held trademark registrations for EDMOND DE ROTHSCHILD (the “EDMOND DE ROTHSCHILD Mark”) since at least 2009 including a registration in France for services in classes 35, 36 38 and 41 (trademark registration number 3701735, registered June 4, 2010).

The Domain Names were registered on January 2, 2023, and do not resolve to active websites.

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 Domain Names.

Notably, the Complainant contends that:

- a) It is the owner of the EDMOND DE ROTHSCHILD Mark, having registered the EDMOND DE ROTHSCHILD Mark in France and various other jurisdictions. Each of the Domain Names is either identical or confusingly similar to the EDMOND DE ROTHSCHILD Mark as they reproduce the EDMOND DE ROTHSCHILD Mark in its entirety, merely removing the space between the words and in some cases adding hyphens.
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Names. The Complainant has not granted any license or authorization for the Respondent to use the EDMOND DE ROTHSCHILD Mark. The Respondent is not commonly known by the EDMOND DE ROTHSCHILD Mark, nor does it use the Domain Names for a *bona fide* purpose or legitimate noncommercial purpose. Indeed, the Domain Names do not resolve to active webpages.
- c) The Domain Names were registered and are being used in bad faith. There is no plausible circumstance under which the Respondent could legitimately use the Domain Names, which consist of the EDMOND DE ROTHSCHILD Mark in its entirety. Given the reputation of the highly distinctive EDMOND DE ROTHSCHILD Mark, the Respondent must have been aware of the Complainant’s mark at the time of registration. Rather it is likely that the Respondent will be using the Domain Names for the purposes of phishing or other fraudulent purposes.

B. Respondent

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

6. Discussion and Findings

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 Domain Names. 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 mark is reproduced within the Domain Names. Accordingly, the Domain Names are identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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 Domain Names. 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 Domain Names.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a *bona fide* offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Names. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not making a legitimate noncommercial or fair use of the Domain Names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Names.

There is no evidence of any demonstrable preparations to use the Domain Names at all or any other evidence that would give rise to rights or legitimate interests in the Domain Names.

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 Panel considers that the record of this case reflects that there is no evidence of any use or demonstrable preparations to use the Domain Names.

UDRP panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. While UDRP panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the disputed domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the Domain Names, being essentially identical to the EDMOND DE ROTHSCHILD Mark, and finds that in the circumstances of this case the passive holding of the Domain Names does not prevent a finding of bad faith under the Policy. Indeed, the Panel finds on the balance of probabilities that given the nature of the Domain Names, wholly incorporating the well-known EDMOND DE ROTHSCHILD Mark, and the absence of any explanation for the registration and non-use, the Domain Names are most likely being held pending use as website or email address that, without the license of the Complainant, will offer or make reference to the Complainant in an illicit manner for the Respondent’s commercial gain.

Based on the available record, the Panel finds the third element of the Policy has 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 Domain Names <edmond-de-rothschild.cc>, <edmondderothschild.cc>, <edmond-de-rothschild.co> and <edmondderothschild.co> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: October 26, 2023