

ADMINISTRATIVE PANEL DECISION

GROUPE ADEO v. MARIE MICHEL GRALL

Case No. D2022-2652

1. The Parties

The Complainant is GROUPE ADEO, France, represented by Coblenca Avocats, France.

The Respondent is MARIE MICHEL GRALL, France.

2. The Domain Name and Registrar

The disputed domain name <adeoservicesfrance.com> is registered with Gandi SAS (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 20, 2022. On July 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 21, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 21, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On July 21, 2022, the Center sent an email communication to the parties, informing them that the language of the Registration Agreement was French. On July 21, 2022, the Complainant sent an email communication to the Center, confirming that it wished to proceed in English. The Complainant filed an Amendment on July 21, 2022.

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 August 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 25, 2022.

The Center appointed Elise Dufour as the sole panelist in this matter on August 29, 2022. 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. Language of proceedings

The language of the registration agreement for the disputed domain name is French.

Paragraph 11(a) of the Rules provide: "Unless otherwise agreed by the Parties or specified otherwise in the Registration Agreement, the language of the proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceedings."

The Complainant submitted a request that the language of the proceeding should be English, rather than French. The Complainant argued that: 1) English is the language the most widely used in international relations and is one of the working languages of the Center; 2) the Complainant did not have the possibility to know the language of the registration agreement, so it chose the most used language in the world in order to ensure fairness to the parties; 3) the disputed domain name is used in a phishing campaign. Therefore, it is urgent that the proceedings be processed as quickly as possible; 4) the entire translation of the complaint in French would result in delays in the processing of the case and additional costs to the Complainant who is the victim in this case. This situation would be contrary to the paragraphs 10(b) and (c) of the Rules; 5) the Complainant is constantly victim of cybersquatting and has already filed numerous UDRP complaints with the Center.

On August 4, 2022, the Center notified Respondent in English and in French of Complainant's request that the language of the proceedings be English, inviting Respondent to reply in either French or English to this request by August 24, 2022, and warning that should Respondent fail to respond by that date, the Center would assume that Respondent had no objection to proceeding in English and that the Center would conduct the proceeding in English and French, subject to the Panel's ultimate determination. The Respondent failed to respond or to object to the conduct of the proceedings in English.

Given that a request has been made that the proceeding be conducted in the English language, that Complainant has furnished evidence that the email sent for scamming purposes is entirely in the English , that the Complainant's request and the request for response thereto and the Notification of Complaint were served on Respondent by the Center in both French and English, that the Respondent has failed to respond to any of the Center's communications or to the complaint, the Panel considers that, even if both the Complainant and the Respondent appear to be French, the registration agreement is in French and the disputed domain name incorporates the word "France", the proceeding of this matter should be conducted in English in order to avoid delays in the processing of the case and additional costs to the Complainant.

5. Factual Background

The Complainant is a retailer of hardware, with Leroy Merlin as a pioneer company, and is the owner of numerous ADEO trademarks, amongst which notably the following ones:

- French registered trademark ADEO, registration n°3423858, registered on April 14, 2006, in classes 02, 03, 06, 07, 08, 09, 11, 16, 17, 19, 20, 21, 27, 35, and 37;
- International trademark registration ADEO, registration n°930513, registered on October 13, 2006, in classes 02, 03, 06, 07, 08, 09, 11, 16, 17, 19, 20, 21, 27, 35, and 37;
- European Union trademark ADEO, registration n°005384731, registered on January 20, 2009, in classes 02, 06, 07, 08, 16, 27, and 35.

The Complainant also owns a portfolio of domain names that incorporate the ADEO trademark, many of which incorporate both the ADEO mark and the words “service” or “services” such as:

- <adeo-service.fr>
- <adeo-services.com>
- <adeo-services.fr>

The disputed domain name was registered on February 20, 2022 and has been used to create an email account from which the Respondent has sent email correspondence to a third party purporting to emanate from the Complainant and one of its named former employees.

At the time of filing of the Complaint, the disputed domain name was not resolving to an active website.

6. Parties’ Contentions

A. Complainant

For the Complainant, the disputed domain name is confusingly similar to its prior rights: the disputed domain name is composed of an identical reproduction of the Complainant’s ADEO trademark with the addition of the elements “services”, “France” and the generic Top-Level Domain (“gTLD”) extension “.com”. The Complainant argues that the element “services” is descriptive and is a reference to the Complainant’s subsidiary corporation ADEO Services, and that the term “France” is non-distinctive. For the Complainant those adjunctions are irrelevant and insufficient to avoid a risk of confusion.

The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name: to the Complainant’s knowledge the Respondent has never registered ADEO as a trademark and has never acquired any common law rights in ADEO, therefore the Respondent can have no rights in the disputed domain name. The Complainant also asserts that it has neither authorized nor licensed the Respondent in any way to use or exploit the ADEO trademark, to register the disputed domain name, or to associate itself with the Complainant.

The Complainant further argues that it has never known the Respondent nor has it had any relationship with the Respondent. Referring to email correspondence adduced in evidence in an annex to the Complaint, the Complainant submits that the exhibit shows that the Respondent has used the disputed domain name to create an email account which is being used for phishing and contends that the Respondent clearly intends to use the disputed domain name to take advantage of its resemblance to the Complainant’s ADEO trademark.

Finally, the Complainant submits that the Respondent has registered the disputed domain name in bad faith, with the aim of taking advantage of the reputation of the trademark ADEO, which is a famous company that has frequently been the target of cybersquatting.

The Complainant argues also that the bad faith of the Respondent is established by the fact that the disputed domain name is being used in bad faith for the purposes of carrying out a phishing scam as described above.

Considering all the above, the Complainant requests from the Panel to order that the disputed domain name be transferred to the Complainant.

B. Respondent

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

7. Discussion and Findings

A. Identical or Confusingly Similar

The disputed domain name <adeoservicesfrance.com> wholly incorporates the Complainant's trademarks ADEO, which, as it has been long established by previous UDRP panels, may be sufficient to determine that a disputed domain name is identical or confusingly similar to the Complainant's trademarks.

The additional terms "services" and "France" do not prevent the disputed domain name from being identical or confusingly similar to the Complainant's trademark (See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#))).

Finally, it is well established that the addition of the gTLD ".com" should be disregarded when assessing similarity as it is a standard registration requirement (See section 1.11, [WIPO Overview 3.0](#), *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#)).

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

The Panel finds that the requirement of paragraph 4(a)(i) of the Policy is met.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel considers that the Complainant has successfully established the Respondent is not commonly known under the disputed domain name, nor does it own registered rights on the disputed domain name or has been authorized by the Complainant to use the prior trademarks in any way.

In addition, the Complainant produced as evidence an email correspondence showing that the Respondent has used the disputed domain name to create an email account used for phishing activity.

For the Panel, the use of a fraudulent email address in aid of a phishing scam cannot amount to *bona fide* or legitimate activity for the purposes of this element of the Policy.

The Panel hence finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

It is well established that once a complainant makes out a *prima facie* case that a respondent has no rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to prove its rights or legitimate interests

However, the Respondent did not provide a Response or any evidence in this administrative proceeding.

On the basis of the foregoing, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

With regards to the registration of the disputed domain name, the Panel finds that at the time of the registration of the disputed domain name, the Respondent knew or should have been aware of the existence of the Complainant's trademarks and activities. Indeed, given the fact that the Complainant's trademarks are well-known and that the Complainant has acquired a high degree of recognition, the Respondent cannot credibly claim to have been unaware of the existence of the previous trademarks.

As to use of the disputed domain name in bad faith, the evidence shows that the disputed domain name does not resolve to any active website but instead has been used to create an email account from which the Respondent has sent at least one email, impersonating the Complainant, and one of the Complainant's named former employees.

The email was sent to one of the Complainant's suppliers purporting to place a high value order. Such use of the disputed domain name for the purposes of phishing constitutes use in bad faith for the purposes of the Policy.

Therefore, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy, paragraph 4(a)(iii).

8. 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 <adeoservicesfrance.com> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: September 12, 2022