

ADMINISTRATIVE PANEL DECISION

Publicis Groupe SA v. Herbert Guillaume
Case No. D2022-3016

1. The Parties

The Complainant is Publicis Groupe SA, France, represented by Fieldfisher LLP, United Kingdom.

The Respondent is Herbert Guillaume, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <mslgroups.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2022. On August 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 18, 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 (Domains By Proxy, LLC). The Center sent an email communication to the Complainant on August 19, 2022, 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 August 22, 2022. On August 26, 2022, the Respondent sent an email communication to the Center.

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 September 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 2, 2022. On October 10, 2022, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Kaya Köklü as the sole panelist in this matter on October 24, 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. Factual Background

The Complainant is a globally active advertising and public relations company with its registered seat in France. Its roots date back to the year 1926. Meanwhile, the Complainant and its group members have more than 79,000 employees worldwide.

The Complainant is the owner of the MSL trademark, which is used by the Complainant to provide services *inter alia* in the fields of public relations, strategic communications and engagement, financial communications, experiential marketing, live event management, healthcare communications, public affairs, reputation management, and social media marketing.

Among others, the Complainant is the owner of European Union Trademark Registration No. 009710666 for MSL, registered on March 16, 2012, and Chinese Trademark Registration No. 9118561 for MSL, registered on February 28, 2012 (Annex 8 to the Complaint).

Furthermore, the Complainant holds and operates various domain names incorporating its MSL trademark, including <mslgroup.com> and <mslgroup.cn> (Annex 9 to the Complaint).

The disputed domain name was registered on March 31, 2022.

The Respondent is reportedly an individual from Hong Kong, China.

As evidenced by screenshots in the Complaint (Annex 10 to the Complaint), the disputed domain name resolved to a website in Turkish language that prominently used the Complainant's MSL trademark and company name, without providing for a visible disclaimer describing the (lack of) relationship between the Parties. At that associated website, alleged career opportunities at the Complainant as well as a subscription model were offered to Internet users in return to the submission of contact details and personal information.

At the time of the Decision, the disputed domain name no longer resolves to an active website.

5. Parties' Contentions

A. Complainant

The Complainant is of the opinion that the disputed domain name is confusingly similar to its MSL trademark.

Furthermore, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Finally, it is argued that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. In its email communication to the Center on August 26, 2022, the Respondent literally stated that "no further response is required unless the complaint is withdrawn. goodbye. I will not accompany you".

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

For the evaluation of this case, the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) and, where appropriate, will decide consistent with the consensus views stated therein.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has registered trademark rights in MSL by virtue of a large number of trademark registrations around the world, including trademark registrations covering protection in China, where the Respondent is reportedly located.

The Panel further finds that the disputed domain name is confusingly similar to the Complainant’s registered MSL trademark, as it fully incorporates the MSL mark. As stated at section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the additions of other terms would not prevent a finding of confusing similarity. The mere addition of the term “groups”, does not, in view of the Panel, serve to avoid a finding of confusing similarity between the disputed domain name and the Complainant’s MSL trademark.

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

B. Rights or Legitimate Interests

The Panel further finds that the Respondent has failed to demonstrate any rights or legitimate interests in the disputed domain name.

While the burden of proof on this element remains with the Complainant, previous UDRP panels have recognized that this would result in the often impossible task of proving a negative, in particular as the evidence in this regard is often primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name in order to meet the requirements of paragraph 4(a)(ii) of the Policy. See, *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Panel finds that the Complainant has satisfied this requirement, while the Respondent has failed to file any evidence or make any convincing argument to demonstrate rights or legitimate interests in the disputed domain name according to the Policy, paragraphs 4(a)(ii) and 4(c).

In its Complaint, the Complainant has provided uncontested *prima facie* evidence that the Respondent has no rights or legitimate interests to use the Complainant's trademark MSL in a confusingly similar way within the disputed domain name.

There is also no indication in the current record that the Respondent is commonly known by the disputed domain name. In the absence of a substantive response, the Respondent has particularly failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or other evidence of rights or legitimate interests in the disputed domain name.

The Panel further notes that the nature of the disputed domain name carries a risk of implied affiliation or association, as stated in section 2.5.1 of the [WIPO Overview 3.0](#). Moreover, the evidence provided by the Complainant shows that the disputed domain name resolved to a website seemingly impersonating the Complainant by featuring the Complainant's MSL trademark, claiming to offer career opportunities at the Complainant and a subscription model for services allegedly provided by the Complainant. Noting the lack of any authorization by the Complainant and the disputed domain name's impersonating content, the Respondent's use of the disputed domain name is not a *bona fide* offering of goods or services, further to section 2.8 of the [WIPO Overview 3.0](#). Rather, the Panel finds that such use can never confer rights or legitimate interests upon a respondent, see section 2.13 of the [WIPO Overview 3.0](#).

As a conclusion, the Panel finds that the Complainant has also satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

In the Panel's view, the Respondent has registered and is using the disputed domain name in bad faith.

The Panel is convinced that the Respondent must have had the Complainant's MSL trademark in mind when registering the disputed domain name.

It even appears that the Respondent has registered the disputed domain name solely for the purpose of creating a misleading association with the Complainant. After having reviewed the Complainant's screenshots of the website linked to the disputed domain name (Annex 10 to the Complaint), the Panel is convinced that the Respondent has intentionally registered the disputed domain name in order to generate traffic to its own website. In this regard, it is noted that the disputed domain name is almost identical to the Complainant's officially used domain name and differs only by the addition of the letter "s". The Panel further notes that the Respondent did not publish any visible disclaimer on the website linked to the disputed domain name to explain that there is no existing relationship between the Respondent and the Complainant. Quite the opposite, as noted above, it was even explicitly indicated that there is an official link between the website associated to the disputed domain name and the Complainant, particularly by prominently using the MSL trademark, promoting asserted career opportunities at the Complainant, and offering an alleged subscription model (Annex 10 to the Complaint). In fact, the Panel cannot exclude that the disputed domain name was intended to be or may already has been used for obtaining personal information and data of misled Internet users. In view of the Panel, this is already sufficient evidence that the Respondent intentionally tries to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's MSL trademark as to the source, sponsorship, affiliation or endorsement of its website.

The fact that the disputed domain name does not currently resolve to an active website does not change the Panel's findings in this respect, particularly given the prior fraudulent use, the Respondent's lack of substantive rebuttal, and the Respondent's use of a privacy service to mask its details.

All in all, the Panel cannot conceive of any plausible and legitimate use of the disputed domain name that would be in good faith, except with an authorization of the Complainant. In fact, the Panel is convinced that this is a typical cybersquatting case, which the UDRP was designed to stop.

Therefore, the Panel concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant has also satisfied the third element of the Policy, namely, 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 name <mslgroups.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: November 7, 2022