

ADMINISTRATIVE PANEL DECISION

La Croissanterie v. IOANNIS PAPADOPOULOS, FOODTALES LTD
Case No. D2022-3357

1. The Parties

The Complainant is La Croissanterie, France, represented by Ipside, France.

The Respondent is IOANNIS PAPADOPOULOS, FOODTALES LTD, Cyprus.

2. The Domain Name and Registrar

The disputed domain name <cafe-croissanterie.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 September 9, 2022. On September 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 9, 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 (Registration Private Domains By Proxy, LLC, DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 12, 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 amended Complaint on September 27, 2022.

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 September 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2022. The Respondent sent an informal communication to the Center on September 15, 2022, however the Respondent did not submit any formal response. Accordingly, the Center notified the parties that it would proceed to panel appointment on October 20, 2022.

The Center appointed Marilena Comanescu 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 French company providing food and drink products, and operates a chain of over 200 cafes and restaurants.

The Complainant owns trademark registration for LA CROISSANTERIE such as the European Union Trademark Registration No. 013009543, for the word with device LA CROISSANTERIE, filed on June 18, 2014, registered on November 11, 2014, for goods and services in the International Classes 29, 30, 32, 35 and 43.

The Complainant owns the domain name <lacroissanterie.fr> where it promotes its goods and services.

The disputed domain name <cafe-croissanterie.com> was registered on July 28, 2022 and, at the time of filing the Complaint, it resolves to a commercial website promoting cafe and restaurant activities which are identical to those provided by the Complainant. On the website under the disputed domain name the Respondent was also offering visitors the possibility to explore “La Croissanterie Franchising”.

The parties were involved in a previous UDRP dispute for the domain name <lacroissanterie-fr.com>, namely *La Croissanterie v. Registration Private, Domains By Proxy, LLC / Ioannis Papadopoulos, Foodtales Ltd*, WIPO Case No. [D2022-2339](#).

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its well-known trademark LA CROISSANTERIE, the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name in bad faith knowing the Complainant's trademark and business. The Complainant requests the transfer of the disputed domain name to it.

Further the Complainant alleges that the Respondent registered as well the domain names <lacroissanterie.com.cy> and <lacroissanterie.cy> and that these domain names were cancelled following the Complainant's actions in Cyprus.

B. Respondent

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

On June 23, 2022, the Center received an email communication from the Respondent stating that “We have changed our website logo and content from LA CROISSANTERIE into CAFÉ CROISSANTERIE.”

6. Discussion and Findings

In view of the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the

following circumstances are met:

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

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the LA CROISSANTERIE trademark.

The disputed domain name contains the element “cafe” and the dominant element of the Complainant’s trademark, “croissanterie”.

In accordance with section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), 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. Panels view the first element as a threshold test concerning a trademark owner’s standing to file a complaint, *i.e.*, to ascertain whether there is a sufficient nexus to assess the principles captured in the second and third elements. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

Also, numerous UDRP panels have considered that the addition of other terms (whether descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name does not prevent a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain (“gTLD”) (*e.g.*, “.com”, “.site”, “.info”, “.shop”) is typically disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use its LA CROISSANTERIE trademark, that the Respondent is not commonly known by the disputed domain name and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, “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”. See section 2.1 of the [WIPO Overview 3.0](#).

There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain name or that the Respondent made a *bona fide* offering of goods or services or a legitimate noncommercial use under the disputed domain name.

The Respondent has not substantially replied to the Complainant's contentions and has not come forward with relevant evidence to rebut the Complainant's *prima facie* case. In its informal communication, the Respondent only mentioned the change of their website logo, which, together with the other evidence in this case, may constitute an acknowledgement of bad faith use of the disputed domain name.

Also, according to the records before it, the Respondent has used the disputed domain name in connection with a website providing goods and services similar to those offered by the Complainant.

For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant holds trademark rights in LA CROISSANTERIE since 2014 and uses the name for 200 restaurants.

The disputed domain name was created in 2022 and incorporates the dominant element of the Complainant's trademark. The Respondent registered at least another domain name containing the Complainant's mark together with a geographical descriptor, "fr", indicating France which is the Complainant's country of origin. See case *La Croissanterie v. Registration Private, Domains By Proxy, LLC / Ioannis Papadopoulos, Foodtales Ltd, supra*.

For the above, the Panel finds that the disputed domain name was registered in bad faith, with knowledge of the Complainant, its business, and particularly targeting its trademark.

At the time of filing the Complaint, the disputed domain name resolved to a page providing services similar to those of the Complainant.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

The Respondent was using without permission the Complainant's trademark in order to generate traffic to its website and thus to obtain commercial gain from the false impression created with regard to a potential affiliation or connection with the Complainant. Such impression is created in particular by the composition of the disputed domain name, the content of the website under the disputed domain name which promotes goods and services identical to those of the Complainant, and also refers to franchising services.

Such diversion of the Internet users looking for the Complainant's official website to the Respondent's website under the disputed domain name may also cause disruption of the Complainant's business and ultimately may tarnish its trademark and business.

Further, as listed under section 4 above, the Respondent was involved in at least one previous UDRP case.

Paragraph 4(b)(ii) of the Policy lists the situation when the respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. Section 3.1.2 of the [WIPO Overview 3.0](#) explains that a pattern of conduct may include a scenario where the respondent, on separate occasions, has registered trademark-abusive domain names, further explaining that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration.

Although the Respondent sent one informal communication, he failed to provide a substantial response to the Complainant's allegations. Along with other circumstances in this case, such fact is a sign of bad faith.

See section 3.6 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 <cafe-croissanterie.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: November 7, 2022