

ADMINISTRATIVE PANEL DECISION

**Cerba Healthcare v. Privacy Service Provided by Withheld for Privacy ehf /
CERBALLIANCE SUD
Case No. D2022-3386**

1. The Parties

The Complainant is Cerba Healthcare, France, represented by Domgate, France.

The Respondent is CERBALLIANCE SUD¹, France.

2. The Domain Name and Registrar

The disputed domain name <cerballiance-idf-sud.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 8, 2022. On September 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 12, 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 September 13, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. Further to two requests for extension, the Complainant filed an amended Complaint on September 23, 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”).

¹ At the time of filing the Complaint, the relevant Whois information showed a privacy or proxy service, “Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf”; the Complainant filed an amended Complaint to include the Registrar confirmed underlying registrant, “CERBALLIANCE SUD”. In the present circumstances, the Panel considers the Registrar-confirmed underlying registrant details of the disputed domain name to constitute the concerned Respondent at issue.

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 did not submit any response. Accordingly, the Center notified the Respondent's default on October 20, 2022.

The Center appointed William Lobelson as the sole panelist in this matter on October 25, 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 CERBA HEALTHCARE, a French based group dedicated to operating medical biology laboratories on a European scale.

The Complainant is running a network of laboratories under the name "CERBALLIANCE".

One of those laboratories is CERBALLIANCE ILE DE FRANCE SUD.

The Complainant owns a number of trademarks formed with CERBALLIANCE:

- French Trademark CERBALLIANCE No. 4213826 registered on September 30, 2015, covering services in classes 42 and 44.
- International Trademark CERBALLIANCE No. 1316808 registered on March 9, 2016, covering services in classes 42 and 44 and designating Australia, Denmark, Finland, Great Britain, Greece, Ireland, Japan, Sweden, Tunisia, Unites States of America, Austria, Swiss, Germany, Algeria, Italy, Morocco and Portugal.

The disputed domain name was registered on June 28, 2022.

The Complainant served a cease and desist letter on June 30, 2022 to Respondent (using the Registrant email address available in the WhoIs), that remained unanswered.

After being alerted by one of its suppliers that the owner of the disputed domain name was impersonating its Purchasing Manager, the Complainant filed a Complaint with the French police on August 4, 2022.

The disputed domain name was used to send fraudulent emails and resolves to a parked page displaying links to other websites.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to its earlier trademarks; that the Respondent does not have any rights or legitimate interests therein; that the Respondent registered and uses the disputed domain name in bad faith, being emphasized that the disputed domain name routes to a pay-per-click page, that the Respondent declared a name that is identical to Complainant's trademark and uses the domain name as an e-mail address to impersonate a fictive Complainant's employee in order to mislead the Complainant's business partners.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Notwithstanding the lack of formal response, it remains incumbent on the Complainant to make out its case in all respects under the rules set out in paragraph 4(a) of the Policy. Namely, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (paragraph 4(a)(i));
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name (paragraph 4(a)(ii)); and
- (iii) the disputed domain name has been registered and is being used in bad faith (paragraph 4(a)(iii)).

A. Identical or Confusingly Similar

The Complainant is the owner of trademark registrations for CERBALLIANCE.

The disputed domain name reproduces the Complainant's trademark CERBALLIANCE.

Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise), in this case the geographical designation "idf-sud" ("idf" is the usual French abbreviation for "Ile-de-France", namely the region of Paris and its suburbs, while "sud" is the French for "south") would not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Furthermore, the addition of the generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

To demonstrate rights or legitimate interests in a domain name, non-exclusive Respondent defenses under UDRP, paragraph 4(c) include the following:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods and services;
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel notes that the Respondent has not filed a response and thus did not deny the Complainant's assertions, nor brought any information or evidence for demonstrating any rights or legitimate interests.

The Complainant has made a *prima facie* case showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name.

The Complainant further contends that the Respondent has not acquired any trademark in the term "cerballiance", and does not make any *bona fide* use - neither commercial nor noncommercial, of the disputed domain name, other than routing the same to a parking page of pay-per-click sponsored links. In addition, the disputed domain name was used to send fraudulent emails. Panels have categorically held that use of a domain name for illegal activity can never confer rights or legitimate interests.

Furthermore, where a domain name consists of a trademark plus a geographical term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant has substantiated the fact that its trademark CERBALLIANCE, which has been registered and used in France and internationally for years, now benefits from a high level of public awareness.

It therefore appears very unlikely that the Respondent could not be unaware of the Complainant's rights in the trademark CERBALLIANCE when it sought to register the disputed domain name.

It also transpires from the documents filed in support of the Complaint that when the identity of the Respondent was eventually disclosed by the Registrar, it was revealed that the Respondent had used "CERBALLIANCE SUD" as a name, a French address, and the position of "responsable achats" (purchasing manager).

The Panel has therefore no reason to question the accuracy of the Complainant's assertion that the Respondent used false information to register the disputed domain name.

For this Panel, the above is a clear indication that the Respondent necessarily had the Complainant's trademark in mind when it registered the disputed domain name.

The information provided to the Panel in support of the Complainant's contentions also shows that the Respondent is making use of the disputed domain name as an email address "[...][@cerballiance-idf-sud.com](mailto:[...]@cerballiance-idf-sud.com)", and tries to place orders with some of the Complainant's suppliers and clients, pretending to be the Purchasing Manager of CERBALLIANCE (the Complainant), with a view to extorting goods and funds from the Complainant's business partners.

This is a fraudulent impersonation of the Complainant that characterizes a use in bad faith of the disputed the domain name.

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 <cerballiance-idf-sud.com> be transferred to the Complainant.

/William Lobelson/

William Lobelson

Sole Panelist

Date: November 3, 2022