

ADMINISTRATIVE PANEL DECISION

Match Group, LLC v. Internet Ventures Limited
Case No. DNL2022-0042

1. The Parties

The Complainant is Match Group, LLC, United States of America, represented internally.

The registrant of the disputed domain name is Internet Ventures Limited, Malta (the “Respondent”).

2. The Domain Name and Registrar

The disputed domain name <tindernederland.nl> (the “Domain Name”) is registered with SIDN through AXC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 11, 2022. On October 12, 2022, the Center transmitted by email to SIDN a request for registrar verification in connection with the Domain Name. On October 13, 2022, SIDN transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details of the Respondent. On October 21, 2022, the registrar in its turn transmitted by email to the Center further information in relation to the Domain Name.

The Center verified that the Complaint satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint and the proceedings commenced on October 20, 2022. In accordance with the Regulations, article 7.1, the due date for Response was November 9, 2022. The Center did not receive any response. Accordingly, the Center notified the Respondent’s default on November 10, 2022.

The Center appointed Willem J. H. Leppink as the panelist in this matter on November 15, 2022. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

The Complainant is a subsidiary company of Match Group Inc. Match Group Inc. exploits over 45 different brands for (online) dating services. As such, the Complainant provides online-matchmaking services via its official website “www.tinder.com”. Users of the online-matchmaking services can also use the Tinder mobile application in order to make use of the services offered by the Complainant. Currently, the Tinder mobile application has several million paid subscribers and is available in more than 30 different languages.

The Complainant is the owner of several trademark registrations comprising of the word element TINDER, including, but not limited to, the European Union Trade Mark TINDER (word mark), with registration No. 012278396 and registration date of March 31, 2014, for goods and services in classes 9, 42, and 45 (the “Trademark”).

The Domain Name was registered on June 23, 2016. The Domain Name resolved to a website (the “Website”) displaying, *inter alia*, the Trademark and a call-to-action button requesting Internet users to create an account for the Website.

5. Parties’ Contentions

A. Complainant

In summary, the Complainant contends the following.

The Domain Name is confusingly similar to the Trademark. More specifically, the Domain Name is composed of the Trademark in its entirety, merely adding a geographical term (“nederland”, Dutch for “Netherlands”). By doing so, the Respondent opted to create the false impression that its services somehow relate to the services of the Complainant. Furthermore, the country code Top-Level Domain “.nl” should be disregarded.

The Respondent has no prior rights or legitimate interests in regard to the Domain Name. The Respondent is not commonly known by the Domain Name. Moreover, the Respondent is not affiliated with the Complainant, nor has the Complainant authorized or given its permission to use the Trademark. The Complainant further claims that the Respondent uses the Website to which the Domain Name resolves to link to another website “www.seksbuddy.nl” that offers pornographic material and/or services. Such use of the Domain Name cannot constitute a *bona fide* offering of goods and services.

The Domain Name has been registered and used in bad faith. The Respondent registered the Domain Name with prior knowledge of the Trademark, as the Website makes several references to the Complainant and clearly displays the Trademark. By doing so, the Respondent is intentionally using the Domain Name to attract Internet users to the Website by creating a likelihood of confusion that derives from the false impression of an association with the Complainant. Upon entering the Website, Internet users are redirected to another website “www.seksbuddy.nl” that offers pornographic content and/or services.

B. Respondent

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

6. Discussion and Findings

Pursuant to article 2.1 of the Regulations, the Complainant must prove each of the following three elements:

a) the Domain Name is identical or confusingly similar to:

- I. a trademark or trade name protected under Dutch law in which the Complainant has rights; or
 - II. a personal name registered in the General Municipal Register (Gemeentelijke Basisadministratie) of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which the Complainant undertakes public activities on a permanent basis; and
- b) the Respondent has no rights to or legitimate interests in the Domain Name; and
- c) the Domain Name has been registered or is being used in bad faith.

Article 10.3 of the Regulations provides that in the event a respondent fails to submit a response, the complaint shall be granted unless the panel considers it to be without basis in law or in fact. The Panel thereby notes that this does not mean that the requested remedy should automatically be awarded. The Panel will have to determine whether the Complainant's case *prima facie* meets the requirements of article 2.1 of the Regulations.

A. Identical or Confusingly Similar

The Complainant has shown that it has rights in the Trademark, which also grants protection in the Netherlands.

The Domain Name consists of the Trademark in its entirety, followed by the geographical term "nederland".

The Panel finds that, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark, as set out in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.¹ In this case, the Trademark is included in the Domain Name, and the addition of other terms, in the current case the term "nederland", does not prevent a finding of confusing similarity under the first element, as set out in [WIPO Overview 3.0](#), section 1.8. It is furthermore well established under ".nl" case law that the country code Top-Level Domain ".nl" may be disregarded for purposes of article 2.1(a) of the Regulations.

The Panel finds that the Domain Name is confusingly similar to the Trademark, as required by the Regulations.

The Complainant has thus established the first element of article 2.1 of the Regulations.

B. Rights or Legitimate Interests

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

Consistent with earlier decisions under the Regulations, the Complainant must *prima facie* demonstrate that the Respondent has no rights to or legitimate interests in the Domain Name. If the Complainant succeeds in making out this *prima facie* case, the burden of production shifts to the Respondent, which will then have to come forward with appropriate allegations or evidence demonstrating rights to or legitimate interests in the Domain Name (see *Auto 5 v. E. Shiripour*, WIPO Case No. [DNL2008-0027](#)).

The Respondent may demonstrate such rights or legitimate interests *inter alia* through any of the following circumstances based on article 3.1 of the Regulations:

¹ In view of the fact that the Regulations are to an extent based on the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), are relevant to this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

a) before having any notice of the dispute, the Respondent made demonstrable preparations to use the Domain Name (or a name corresponding to the Domain Name) in connection with a *bona fide* offering of goods or services; or

b) the Respondent as an individual, business or other organization is commonly known by the Domain Name; or

c) the Respondent is making a legitimate noncommercial use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish or otherwise damage the relevant trademark, trade name, personal name, name of a Dutch public legal entity or name of an association or foundation located in the Netherlands.

Based on the uncontested record presented, the Panel finds that the Respondent is not commonly known by the Domain Name and does not appear to be affiliated with the Complainant in any way. Neither does the record show that the Respondent is, or has ever been, a licensee of the Complainant or that the Respondent has ever requested and been permitted in any way by the Complainant to register or use a domain name incorporating the Trademark.

The Respondent has also not put forward any evidence that would support the claim that the Respondent has used or made preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

To the contrary, the Respondent uses the Domain Name in order to attract Internet users to its Website for commercial gain by effectively impersonating and/or suggesting the endorsement by the Complainant through the prominent use of the Complainant's Trademark on the Website. In doing so the Respondent is relying on the confusion of Internet users who could mistakenly believe that the Website is operated by the Complainant. The Website to which the Domain Name resolves has a call-to-action button that ultimately redirects the Internet users to another website "www.seksbuddy.nl" that includes the offering of pornographic material and/or services. The Respondent operates the Website without providing any obvious justification for using the Domain Name and referencing the Complainant's Trademark.

Noting further that the Respondent has failed to respond to the Complaint and thus has not taken any steps to rebut the Complainant's arguments, the Panel finds that the Respondent lacks rights to or legitimate interests in the Domain Name.

The Complainant has thus established the second element of article 2.1 of the Regulations.

C. Registered or Used in Bad Faith

In light of its considerations under Section 6.B, the facts presented by the Complainant, and the lack of a response by the Respondent, the Panel finds that the Domain Name has been registered and is used in bad faith.

The Panel finds that the Trademark and the Complainant's activities are well known, if not famous, in many countries. The Complainant is the owner of different trademark registrations for TINDER, which were used and registered several years before the Domain Name was registered. Accordingly, noting also that the Respondent is clearly displaying the Complainant's Trademark on the Website that relates to dating services, the Panel finds that the Respondent was aware of the existence of the Complainant's rights and activities at the time the Respondent registered the Domain Name.

As a result, the Respondent has registered and is using the Domain Name for commercial gain, by attracting Internet users to the Website through the likelihood of confusion which may arise with the Trademark. The Respondent has even included a clear reference to the Complainant by stating "online dating via Tinder in the Netherlands". The prominent use of the Complainant's name and Trademark supports the finding that

the Respondent is intentionally targeting the Complainant by taking advantage of the Trademark, relying on the confusion it intentionally creates in order to redirects the Internet users to another website through which the Respondent offers pornographic material and/or services.

The Panel is thus satisfied that the third element of article 2.1 of the Regulations has been met, and that the Domain Name was registered and is being used in bad faith.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Domain Name <tindernederland.nl> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Panelist

Date: November 18, 2022