

ADMINISTRATIVE PANEL DECISION

SOGERES v. Rault Raoul

Case No. D2023-0170

1. The Parties

Complainant is SOGERES, France, represented by Areopage, France.

Respondent is Rault Raoul, France.

2. The Domain Name and Registrar

The disputed domain name <fr-sogeres.com> (“Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 13, 2023. On January 13, 2023, the Center emailed a request to the Registrar for registrar verification in connection with the Disputed Domain Name. On January 13, 2023, the Registrar emailed the Center its verification response, disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email to Complainant on January 19, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 20, 2023.

The Center has 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 Respondent of the Complaint, and the proceedings commenced on January 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2023. Respondent did not submit any response. Consequently, the Center notified Respondent’s default on February 20, 2023.

The Center appointed Nathalie Dreyfus as the sole panelist in this matter on March 6, 2023. 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

Complainant is Sogeres, a French company founded in 1934, specializing in foodservices and corporate catering services. Sogeres provides a wide range of services under its trade name and trademarks SOGERES through an offer of on-site services.

In 2001, Sogeres joins the SODEXO group, one of the world's leading food management services companies.

Complainant demonstrates its ownership over many trademarks consisting of or including the word SOGERES in France and abroad, among which:

- French word trademark No. 1667699 SOGERES dated of November 15, 1991, duly renewed, for goods and services in classes 21, 29, 30, 35, 39, 40, 41, 43, 44 and 45;
- French combined trademark No. 4475452 SOGERES dated of November 30, 2018, for goods and services in classes 29, 30, 35, 41, 43 and 44;
- European Union word trademark No. 012627261, SOGERES dated of July 21, 2014, for goods and services in classes 21, 29, 30, 35, 39, 41, 43, 44 and 45;
- United Kingdom word trademark No. UK00912627261 "SOGERES" dated of July 21, 2014, for goods and services in classes 21, 29, 30, 35, 39, 41, 43, 44 and 45.

The Disputed Domain Name, <fr-sogeres.com>, has been registered on May 17, 2022, with the registrar NameCheap Inc and resolves to a parking page.

5. Parties' Contentions

A. Complainant

First and foremost, the Complainant alleges that the Disputed Domain Name is identical or confusingly similar to the SOGERES trademarks of which he is the owner:

To support this claim, Complainant firstly refers to its strong reputation, especially in France, where Respondent is located.

Complainant also argues that the Disputed Domain Name entirely incorporates its SOGERES trademark in addition to the generic letters "fr", which intentionally refers to France, where Complainant mainly operates.

Complainant emphasizes that the adjunction of the letters "fr" fails to distinguish the Disputed Domain Name from Complainant's trademarks. Furthermore, Complainant argues that the addition of these generic or descriptive letters to its trademark does not neutralize the confusing similarity of the Disputed Domain Name to Complainant's trademarks, by referring to previous UDRP decisions, amongst which:

- *Terex Corporation v. Texas International Property Associates - NA NA*, WIPO Case No. [D2008-0733](#);
- *Billabong International Limited, GSM (Operations) Pty Ltd, GSM (Trademarks) Pty Ltd, GSM (Europe) Pty Ltd, GSM (NZ Operations) Ltd v. Mookie Lei*, WIPO Case No. [D2008-0101](#);
- *Revlon Consumer Products Corporation v. Laurent D. Morel*, WIPO Case No. [D2002-0215](#);
- *Viacom International Inc. v. Erwin Tan*, WIPO Case No. [D2001-1440](#);

- *Nokia Corporation v. Nokiagirls.com a.k.a. IBCC*, WIPO Case No. [D2000-0102](#);
- *eAuto L.L.C. v. Net Me Up*, WIPO Case No. [D2000-0104](#).

As a result, Complainant asserts that the Disputed Domain Name is identical or confusingly similar to its trademarks.

Secondly, Complainant claims that Respondent has no rights or legitimate interests in this Disputed Domain Name:

Complainant claims that Respondent invented his identity and indicated Complainant's address as his location.

Complainant considers that Respondent was not commonly known by the Disputed Domain Name prior to the assumption and use by Complainant of the corporate name, business name and trademarks SOGERES.

Complainant adds that Respondent was not authorized or granted a license to register the Disputed Domain Name and that there was no relationship of any kind between Complainant and Respondent.

Finally, Complainant asserts that Respondent registered and uses the Disputed Domain Name in bad faith:

1. Bad faith registration

Complainant underlines that SOGERES is purely fanciful. Therefore, Complainant reckons that choosing this word or any variation thereof connotes seeking to create an association with its activities and trademarks SOGERES.

Relying on the notoriety of its SOGERES trademarks, Complainant argues that Respondent could not have ignored Complainant's rights at the time of registration.

Complainant also refers to previous UDRP decisions that had already recognized the definite knowledge of the Complainant's trademarks and activities at the time of the registration of the Disputed Domain Name may be considered an inference of bad faith, amongst which:

- *LEGO Juris A/S v. Reiner Stotte*, WIPO Case No. [D2010-0494](#);
- *Accor, So Luxury HMC v. Youness Itsmail*, WIPO Case No. [D2015-0287](#);
- *Caixa D'Estalvis I Pensions de Barcelona (« La Caixa ») v. Eric Adam*, WIPO Case No. [D2006-0464](#).

As a result, Complainant concludes that the Disputed Domain Name has been registered in bad faith.

2. Use in bad faith

Complainant claims that Respondent registered the Disputed Domain Name for the purpose of generating confusion with Complainant's trademark to divert or mislead third parties.

Complainant argues that even if the Disputed Domain Name does not presently have any active content, a passive holding of a domain name does not prevent a finding of bad faith, quoting:

- *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#);
- *Novo Nordisk A/S v. CDMS Invest*, WIPO Case No. [D2012-0676](#).

Finally, Complainant considers that bad faith use may also result from the threat of an abusive use of the Disputed Domain Name by Respondent, as it was the case in *Conair Corp. v. Pan Pin, Hong Kong Shunda International Co. Limited*, WIPO Case No. [D2014-1564](#).

Complainant concludes that the Disputed Domain Name is used in bad faith.

B. Respondent

Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

According to Policy 4(a) there are three conditions that the Complainant must satisfy in order to obtain a decision that the disputed domain name registered by the Respondent will be deleted or transferred to the Complainant:

- (i) the disputed domain name is identical or similar to the name in which the national law of the Member State and/or the law of the European Union recognizes or establishes a right; and,
- (ii) the disputed domain name was registered by the Respondent without any right or legitimate interest in the disputed domain name; or
- (iii) the disputed domain name was registered or is being used in bad faith.

A. Identical or Confusingly Similar

Complainant has registered many SOGERES trademarks in France and abroad, as indicated above under section 4.:

Therefore, the Panel considers that the trademarks rights of Complainant in the sign SOGERES are established.

The Disputed Domain Name includes Complainant's trademarks in their entirety. Long-standing UDRP case law highlights that confusing similarity is established where the Disputed Domain Name reproduces a trademark entirely (See section 1.7 and 1.8 of the WIPO Overview 3.0)

The addition of the letters "fr" would not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). The Panel agrees with Complainant that the Disputed Domain Name reproduces the trademark SOGERES with the only difference being the addition of the letters "fr" which does not prevent confusing this similarity.

Furthermore, the gTLD ".com" only responds to a material requirement to register a domain name and is usually disregarded in order to assess confusing similarity between a domain name and a trademark (See *Société Air France v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues*, WIPO Case No. [D2019-0578](#)).

As a result, the Panel considers that the confusing similarity is established and that the Disputed Domain Name is confusingly similar to Complainant's trademarks.

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

B. Rights or Legitimate Interests

Complainant underlines that Respondent was not authorized to register and use the Disputed Domain Name

and that there is no relationship between Complainant and Respondent.

Long-standing UDRP case law has considered these circumstances to be sufficient to make a *prima facie* case that Respondent lacks rights or interests in the Disputed Domain Name (see for instance *Linklaters LLP v. WhoisGuard Protected / Cindy Smith*, WIPO Case No. [D2019-0941](#)).

Moreover, Respondent is not commonly known by the Disputed Domain Name. (see for instance *LEGO Juris A/S v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-0248](#))

The Panel agrees and finds that Respondent does not have rights or legitimate interests in the Disputed Domain Name.

Therefore, the Panel finds that Complainant has satisfied Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

To fulfill the third requirement of the Policy, Complainant must prove that the Disputed Domain Name was registered and used in bad faith.

1. Registration in bad faith

Firstly, previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a renowned or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Considering the confusing similarity between the Disputed Domain Name and Complainant's prior company name and trademarks, it is most likely that Respondent registered the Disputed Domain Name with having the Complainant's trademarks in mind.

Moreover, Complainant has shown trademark rights on SOGERES since at least since 1991. Complainant's registered trademarks significantly predate the registration date of the Disputed Domain Name.

In addition, Complainant claims that the SOGERES trademarks are well-known, which Respondent does not contest.

The Panel finds it more likely that Respondent registered the Disputed Domain Name based on the notoriety and attractiveness of Complainant's business and registered Trademarks to divert Internet traffic to its websites.

As a result, the Panel finds that the Disputed Domain Names was registered in bad faith.

2. Use in bad faith

The Disputed Domain Name resolves to an inactive page. There is no evidence of any positive action being undertaken by Respondent in relation to the Disputed Domain Name. This state of inactivity does not mean that the Disputed Domain Name is used in good faith as passive holding does not preclude a finding of bad faith (See section 3.3 of the [WIPO Overview 3.0](#)).

Under the passive holding doctrine, bad faith use is more likely when Respondent passively holds the Disputed Domain Name, especially when the Disputed Domain Name incorporates a famous trademark (see e.g., *Hugo Boss Trade Mark Management GmBH & Co. KG, et al. v. Private Registration/George Kara*, WIPO Case No. [D2015-0666](#)), noting that Complainant argues that SOGERES is a well-known trademark, which Respondent does not contest.

It seems that Respondent is attempting to benefit from the goodwill associated with Complainant's trademarks and it appears likely that Respondent's primary motive in registering and using the Disputed Domain Name was to capitalize on or otherwise take advantage of Complainant's trademark rights through the creation of initial interest of confusion.

In light of the above, the Panel finds that the Disputed Domain Name is also being used in bad faith.

As a result, the Panel finds that Complainant has satisfied 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 <fr-sogeres.com> be transferred to Complainant.

/Nathalie Dreyfus/

Nathalie Dreyfus

Sole Panelist

Date: March 20, 2023