

ADMINISTRATIVE PANEL DECISION

Champagne Louis Roederer v. Ivan Smith
Case No. D2023-1118

1. The Parties

The Complainant is Champagne Louis Roederer, France, represented by Plasseraud IP, France.

The Respondent is Ivan Smith, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <champagnes-roederer.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 March 14, 2023. On March 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 14, 2023, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 15, 2023 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 March 15, 2023.

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 March 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 18, 2023.

The Center appointed Luca Barbero as the sole panelist in this matter on April 24, 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

The Complainant is one of the most well-known French Champagne houses. Established in 1776 and located in Reims, France, the Complainant is named after Louis Roederer, who inherited it in 1833, and produces a wide range of champagne wines under the trademarks LOUIS ROEDERER, CHAMPAGNE ROEDERER or ROEDERER.

The Complainant and its products enjoy a considerable reputation in the field of Champagne wines, not only in France, but also internationally. From the 1870s, the Complainant began to export its wines to the United States, and even to Tsar Alexander II. The Complainant has developed their activities in more than 100 countries now and 70.8% of their sales volumes are generated by exports. The Complainant's annual exports total three million bottles around the world.

The Complainant is the owner of several trademark registrations that contains the term Roederer, including the following, as per trademark registration details submitted as Annex 9 to the Complaint:

- French trademark registration No. 1236039 for CHAMPAGNE ROEDERER (word mark), filed on March 31, 1983, in international class 33, duly renewed;
- French trademark registration No. 1236040 CHAMPAGNE LOUIS ROEDERER (word mark), filed on March 31, 1983, in international class 33, duly renewed;
- United States trademark registration No. 71061643 for LOUIS ROEDERER (figurative mark), filed on February 21, 1912 and registered on May 12, 1914, in international class 33;
- International trademark registration No. 938829 for ROEDERER (word mark), registered on August 21, 2007 in international classes 33 and 35;
- European Union trademark registration No. 005724869 for ROEDERER (word mark), filed on March 1, 2007 and registered on February 8, 2008 in international classes 32, 33 and 35.

The Complainant is also the owner of the domain name <champagne-roederer.com>, which was registered on March 26, 1997 and is used by the Complainant to promote its products.

The disputed domain name <champagnes-roederer.com> was registered on January 24, 2023 and is currently not pointed to an active website. According to the screenshot submitted as Annex 13 to the Complaint – which has not been challenged by the Respondent - the disputed domain name was previously pointed to a parking page with commercial links also related to champagne wines, and is now inactive. Based on the correspondence submitted as Annex 3 to the Complaint, the disputed domain name was also used to create an email address from which emails impersonating the Complainant were sent seeking from the recipients, namely the Complainant's distributors, an answer regarding the payment schedule for some allegedly outstanding invoices.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the trademarks in which the Complainant has rights and submits that the Respondent's registration of the disputed domain name amounts to a typical case of "typosquatting" as the disputed domain name differs only for one letter "s" from the Complainant's trademark CHAMPAGNE ROEDERER.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that the Respondent is not commonly known by the disputed domain name, nor has it ever authorized the Respondent to register and/or to use the trademark CHAMPAGNE ROEDERER nor any other similar sign.

The Complainant further submits that the disputed domain name has not been used in connection with a *bona fide* offering of goods or services since the Respondent used it to resolve to a parking page and to fraudulently impersonate the Complainant in an attempt to conduct employees of distributing companies of the Complainant to provide information and a payment schedule for some allegedly outstanding invoices.

Moreover, the Complainant underlines that the Respondent is also not making a legitimate non-commercial or fair use of the disputed domain name since the latter has been used to misleadingly divert a third party, namely the recipient of a fraudulent email which was sent to request information on the payment of invoices.

With reference to the circumstances evidencing bad faith, the Complainant indicates that its business has been running under the brand CHAMPAGNE LOUIS ROEDERER since 1833 and the trademarks containing the term Roederer, which have now been registered all over the world, predate the registration of the disputed domain name. The Complainant therefore submits that it is highly unlikely that the Respondent was not aware of the Complainant at the time of registering the disputed domain name.

The Complainant emphasizes that the disputed domain name was used to create at least one email address, from which emails impersonating the Complainant were sent, to fraudulently obtain from their recipients (namely employees of some European distributing companies of the Complainant), an answer regarding the payment schedule for allegedly outstanding invoices. The Complainant underlines that such communications were signed with the name of an export manager genuinely working for the Complainant and included the Complainant's name, address and footer.

In addition, the Complainant highlights that, considering the Respondent pointed the disputed domain name to a parking page with sponsored links, the Respondent intended to purposely capitalize on the Complainant's fame and goodwill.

As further circumstances evidencing the Respondent's bad faith, the Complainant points out that the Respondent concealed his identity with the aim of preventing the Complainant from knowing his identity and taking direct legal actions against him, and submits that the Respondent's contact details as provided by the Registrar to the Center after the filing of the Complaint are apparently false.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

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

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark CHAMPAGNE ROEDERER based on the French trademark registration cited under section 4 above.

As highlighted in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the first element functions primarily as a standing requirement, and the threshold test for confusing similarity 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.

Moreover, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms or even letters or numbers does not prevent a finding of confusing similarity under the first element. Further, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark for purposes of the first element. See sections 1.8 and 1.9 of the [WIPO Overview 3.0](#).

The disputed domain name reproduces the trademark CHAMPAGNE ROEDERER with the mere addition of the letter "s" to the first word "champagne", a hyphen and the generic Top-Level Domain ".com", which can be disregarded being a mere technical requirement for registration.

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant must show that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

"(i) before any notice to you of the dispute, your use of, or 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

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

In the case at hand, the Panel finds that the Complainant has made a *prima facie* case and that the Respondent, by not submitting a Response, has failed to invoke any circumstance that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's trademarks. Moreover, there is no element from which the Panel could infer the Respondent's right over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

Based on the evidence submitted by the Complainant, which has not been contested by the Respondent, the Panel finds that the Complainant has proven that the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use without intent to misleadingly divert the consumers or to tarnish the Complainant's trademarks.

Indeed, the disputed domain name is clearly confusingly similar to the Complainant's prior trademark CHAMPAGNE ROEDERER, which is widely known in the field of champagne wines and was previously redirected to a parking page with commercial links also related to products for which the Complainant's

trademark is used (Annex 13 to the Complaint). As stated in section 2.9 of the [WIPO Overview 3.0](#), “Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users”.

The disputed domain name was used to create at least one email address, from which emails impersonating the Complainant were sent to the Complainant’s distributors seeking information on the payment plan of alleged outstanding invoices of the Complainant. Furthermore, the sender of such email communications signed the email communications in the name of a Complainant’s employee, using the Complainant’s address and footer (Annex 3 to the Complaint). As indicated in section 2.13.1 of the [WIPO Overview 3.0](#), Panels have categorically held that the use of a domain name for illegal activity, including phishing, impersonation/passing off or other types of fraud, can never confer rights or legitimate interests on a respondent.

Therefore, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in the disputed domain name according to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain name was registered and is being used by the Respondent in bad faith.

As to bad faith at the time of the registration, the Panel finds that, in light of i) the prior registration and use of the Complainant’s trademarks CHAMPAGNE ROEDERER, CHAMPAGNE LOUIS ROEDERER and ROEDERER in connection with the Complainant’s champagne wines, ii) the widely-known character of the trademarks, and iii) the confusing similarity of the disputed domain name with the Complainant’s trademark CHAMPAGNE ROEDERER and with the Complainant’s domain name <champagne-roederer.com> - from which it differs only by the addition of one letter “s” - the Respondent likely registered the disputed domain name having the Complainant’s trademarks in mind.

Moreover, the fact that the disputed domain name was pointed to a parking page with pay-per-click links also related to champagne wines further indicates that the Respondent was probably aware of the Complainant’s trademarks.

Furthermore, according to the evidence on record (Annex 3 to the Complaint), communications sent from an email address based on the disputed domain name for fraudulent purposes misused the Complainant’s contact details and these communications were sent on behalf of an export manager of the Complainant. The Panel finds that this is compelling evidence of the Respondent’s actual knowledge of the Complainant and its trademarks.

The Panel also finds that the Respondent’s use of the disputed domain name in connection with a website displaying pay-per-click links amounts to bad faith under paragraph 4(b)(iv) of the Policy, since the Respondent intentionally attempted to attract Internet users to his website for commercial gain, by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation or endorsement of the website and the products advertised therein.

Furthermore, as stated in section 3.1.4 of the [WIPO Overview 3.0](#), the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

As to the current redirection of the disputed domain name to an inactive website, according to section 3.3 of the [WIPO Overview 3.0](#), “From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or ‘coming soon’ page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of

distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put".

In the case at hand, in view of i) the widely-known character of the Complainant's trademarks; ii) the Respondent's registration of a domain name confusingly similar to the Complainant's prior trademark CHAMPAGNE ROEDERER; iii) the absence of any documented rights or legitimate interests of the Respondent in the disputed domain name; iv) the Respondent's failure to respond to the Complaint; v) the implausibility of any good faith use to which the disputed domain name may be put, the Panel finds that the current passive holding of the disputed domain name by the Respondent does not prevent a finding of bad faith registration and use.

The Panel also finds that the Respondent's use of an email address based on the disputed domain name to contact the Complainant's distributors seeking information on payment of allegedly outstanding invoices clearly amounts to bad faith, as it demonstrates the Respondent's clear intent to pass off as the Complainant to fraudulently obtain payments due to the Complainant.

As stated in section 3.4 of the [WIPO Overview 3.0](#), "Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. (In some such cases, the respondent may host a copycat version of the complainant's website.) Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers".

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and is using the disputed domain name in bad faith according to 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 <champagnes-roederer.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: May 8, 2023