

ADMINISTRATIVE PANEL DECISION

Leonardo DiCaprio v. Vasilij hcvlsdhifj
Case No. D2023-1576

1. The Parties

The Complainant is Leonardo DiCaprio, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Vasilij hcvlsdhifj, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <ldcfoundation.org> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2023. On April 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 13, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 17, 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 April 20, 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 April 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 16, 2023.

The Center appointed Edoardo Fano as the sole panelist in this matter on May 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.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to the Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a response from the Respondent.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is Leonardo DiCaprio, an American actor, film producer and activist, owning several trademark registrations for LEONARDO DICAPRIO, among which:

- United States Trademark Registration No. 2987171 for LEONARDO DICAPRIO, registered on August 23, 2005;
- European Union Trademark Registration No. 001001718 for LEONARDO DICAPRIO, registered on January 24, 2000; and
- United Kingdom Trade mark Registration No. UK00901001718 for LEONARDO DICAPRIO, registered on January 24, 2000.

The Complainant also operates on the Internet, its main website being "www.leonardodicaprio.com".

In 1998, the Complainant established the Leonardo DiCaprio Foundation, famously known as LDC Foundation, to support innovative projects that protect vulnerable wildlife from extinction, whose website was "www.ldcfoundation.org" until the relevant domain name, that is the current disputed domain name, inadvertently lapsed in 2022. In 2019, the Leonardo DiCaprio Foundation merged with Emerson Collective and Global Wildlife Conservation to form Earth Alliance.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on July 26, 2022, and it resolves to a website about "endangered animal species". However, when the Complaint was filed the disputed domain name redirected to a website with references to the Complainant's Foundation as well as reproducing copyright-protected materials, taken from the Complainant's Foundation official website. Before the Complaint was filed, the disputed domain name resolved to a parking page with sponsored links to charity donations, the same field as the Complainant's Foundation.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to his trademark LEONARDO DICAPRIO, as the disputed domain name consists of the acronymized version of the Complainant's trademark, *i.e.*, "ldc", followed by the additional term "foundation" which corresponds to the Complainant's Foundation.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since the disputed domain name belonged to the Complainant, before it inadvertently

lapsed, and the Respondent has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name, it is not commonly known by the disputed domain name and it is not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name redirects to a website where there were references to the Complainant's Foundation, and the Complainant's copyright-protected materials, taken from the Complainant's Foundation official website, were reproduced.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant's trademark LEONARDO DICAPRIO is distinctive and internationally known as one of the most famous actors. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain name and the Complainant contends that the use of the disputed domain name with the purpose to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark, attempting to capitalize on consumer recognition of the Complainant's trademark, qualifies as bad faith registration and use.

Finally, the Complainant asserts that the Respondent is engaged in a pattern of registering many abusive domain name registrations.

B. Respondent

The Respondent has made no reply to the Complainant's contentions and is in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (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 respect of the disputed domain name; and
- (iii) 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 is the owner of the trademark LEONARDO DICAPRIO both by registration and acquired reputation and that the disputed domain name is confusingly similar to the trademark LEONARDO DICAPRIO, as it incorporates the acronymized version of the Complainant's trademark followed by the additional term "foundation", corresponding to the Complainant's Foundation. The Panel also finds that the Complainant has provided evidence of rights (including for example the fact that the Complainant was once the registrant of the disputed domain name).

It is also well accepted that a generic Top-Level Domain ("gTLD"), in this case ".org", is typically ignored when assessing the similarity between a trademark and a domain name. See [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Complainant has therefore met his burden of proving 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

Paragraph 4(a)(ii) of the Policy requires the Complainant to prove that the Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following circumstances, in particular but without limitation:

“(i) before any notice to you [the respondent] of the dispute, [the respondent's] 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) [the respondent] 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) [the respondent] 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.”

According to paragraph 4(a) of the Policy, the Complainant has the burden of proving the three elements of the Policy. However, satisfying the burden of proving a lack of the Respondent's rights or legitimate interests in respect of the disputed domain name according to paragraph 4(a)(ii) of the Policy is potentially quite difficult, since proving a negative circumstance is generally more complicated than establishing a positive one. As such, it is well accepted that it is sufficient for the Complainant to make a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name in order to shift the burden of production of evidence to the Respondent. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy or on any other basis, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant in his Complaint, and as set out above, has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. He asserts that the Respondent, who is not currently associated with the Complainant in any way, is not using the disputed domain name for a legitimate noncommercial or fair use or in connection with a *bona fide* offering of goods or services. The Panel accepts the Complainant's assertion about the opportunistic registration of the disputed domain name by the Respondent, as the Respondent registered the disputed domain name when the latter was inadvertently allowed to lapse, after it had been used by the Complainant for more than a decade. When the Complaint was filed, the website to which the disputed domain name redirects presented references to the Complainant's Foundation as well as reproduced copyright-protected materials, taken from the Complainant's Foundation official website. The prior use of the disputed domain name to host a parked page comprising pay-per-click (“PPC”) links also does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's trademark. See [WIPO Overview 3.0](#), section 2.9.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that it has rights or legitimate interests in the disputed domain name. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in the disputed domain name.

The Panel therefore concludes that the disputed domain name is not being used in connection with a *bona fide* offering of goods or services.

Moreover, the Panel finds that the composition of the disputed domain name carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant, especially considering that it was the address of the Complainant's Foundation official website. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the facts of this case, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel therefore finds that paragraph 4(a)(ii) of the Policy has been satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that “[f]or the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that [the respondent has] registered or [has] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of [its] documented out-of-pocket costs directly related to the domain name; or
- (ii) [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or
- (iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, [the respondent has] intentionally attempted 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] web site or location or of a product or service on [the respondent's] web site or location”.

Regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant's trademark LEONARDO DICAPRIO as one of the most famous actors is clearly established and the Panel finds that the Respondent likely knew of the Complainant, and deliberately registered the disputed domain name in bad faith, especially because the disputed domain name resolved to a website making references to the Complainant's LDC Foundation as well as reproducing copyright-protected materials, taken from the Complainant's LDC Foundation official website.

The Panel further notes that the disputed domain name is also being used in bad faith since the Respondent is trying to attract Internet users to its website by creating likelihood of confusion with the Complainant's trademark as to the disputed domain name's source, sponsorship, affiliation or endorsement, making references to the Complainant's Foundation, and hosting a parked page with PPC links, even in the case where they were automatically generated, referring to the same field as the Complainant, and the Respondent cannot disclaim responsibility for the parking page content. See [WIPO Overview 3.0](#), section 3.5.

The above suggests to the Panel that the Respondent intentionally registered and is using the disputed domain name in order to attract, for commercial gain, Internet users to its website in accordance with paragraph 4(b)(iv) of the Policy.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain name, which includes the acronymized version of the Complainant's trademark followed by the term "foundation", which corresponds to the Complainant's Foundation, further supports a finding of bad faith. See, [WIPO Overview 3.0](#), section 3.2.1.

The Panel finds that the Complainant has presented evidence to satisfy its burden of proof with respect to the issue of whether the Respondent has registered and is using the disputed domain name in bad faith, also taking into consideration the pattern of conduct of the Respondent in several other cases of abusive domain name registration, and the Panel notes that the Respondent did not participate in this proceeding.

The Panel therefore finds that paragraph 4(a)(iii) of the Policy has been satisfied.

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, <ldcfoundation.org>, be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: June 5, 2023