

ADMINISTRATIVE PANEL DECISION

Dehon SAS v. Galex Iraq
Case No. D2023-3232

1. The Parties

The Complainant is Dehon SAS, France, represented by Ebrand France, France.

The Respondent is Galex Iraq, Iraq.

2. The Domain Name and Registrar

The disputed domain name <galex-fr.com> is registered with Launchpad.com Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 27, 2023. On July 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 27, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 31, 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 amendment to the Complaint on July 31, 2023.

The Center verified that the Complaint together with the amendment to the 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 August 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 31, 2023.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on September 7, 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 a French corporation founded in 1874, specialized in the packaging and logistics of refrigerant gases. In 1966, the company Galex was created, having become a pioneer in cooling fluids for refrigeration and air conditioning, later acquired by the Complainant. Galex provides the Friojet refrigerant in high quality packaging.

The Complainant, through the company GESTIMAT SAS, is the owner of the domain name <galex.fr>, registered on May 29, 1997, which is used as the main website for promoting the GALEX trademark, also allowing the Complainant's customers to verify that the gas bottles purchased are authentic ones and not counterfeits.

The Complainant is the owner of the following, among other, trademark registrations:

- Indian trademark registration No. 1815991, for the word mark GALEX, registered on May 8, 2009 in classes 1 and 6;
- Tunisian trademark registration No. 001452, for the word mark GALEX, registered on March 2, 2010, subsequently renewed, in classes 1, 6, 37 and 39.

The disputed domain name was registered on September 8, 2022 and presently resolves to an active webpage in Arabic and English reproducing the Complainant's trademark and impersonating the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that its GALEX trademark has acquired a "big reputation" especially in the Middle East.

Moreover, the Complainant submits that the disputed domain name reproduces in its entirety the Complainant's trademark with the mere addition of the letters "fr" which refers to the Complainant's country and is therefore confusingly similar therewith, what is enhanced by the use being made of the disputed domain name in connection with a website that looks like the official GALEX website (available at <galex.fr>), reproducing the Complainant's trademarks and impersonating the Complainant (by also reproducing texts and credits used in the Complainant's official website).

The Complainant further points out that email servers have been configured and are active (Annex 12 to the Complaint) what indicates that the Respondent could use the disputed domain name in connection with fraudulent emails.

As to the Respondent's lack of rights or legitimate interests in respect of the disputed domain name, the Complainant contends that the website available at the disputed domain name seems to be used in order to hijack the Complainant's verification system that was created by the Complainant to avoid counterfeiting and to protect the Complainant's customers, being thus obvious, under the Complainant's view, that the Respondent has neither rights nor legitimate interests in the disputed domain name that reproduces without authorization the Complainant's trademark.

As to the registration of the disputed domain name in bad faith, the Complainant asserts that the Respondent was evidently aware of the Complainant's well-known trademark at the time of the registration of the

disputed domain name in view of the reproduction of the Complainant's logo, information and attempt to impersonate the Complainant at the website that resolves from the disputed domain name.

Further, the Respondent's intent to target the Complainant may also be inferred by the configuration of active MX-records what indicates that more than impersonating the Complainant, the Respondent could also tarnish the Complainant's image by using the disputed domain name in connection with fraudulent activities.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

(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.

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of a hyphen and the letters "fr" may bear on assessment of the second and third elements, the Panel finds the addition of such letters does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the

respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules.

As seen above, the disputed domain name is being used in connection with a webpage reproducing the Complainant's logo and impersonating the Complainant, also risking the integrity of the Complainant's verification system. Indeed such use cannot be considered here a *bona fide* offering of goods or services nor legitimate noncommercial or fair use under the Policy.

Furthermore, the composition of the disputed domain name, wholly incorporating the Complainant's well-known trademark carries a risk of implied affiliation. See section 2.5.1, [WIPO Overview 3.0](#).

Also, the lack of evidence on record showing that the Respondent has been commonly known by the disputed domain name, is a further indication that the Respondent lacks rights or legitimate interests in the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of the disputed domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the website or other online location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

This case presents the following circumstances which indicate under the balance of probabilities bad faith registration and use of the disputed domain name:

- a) the use made of the disputed domain name in connection with a webpage reproducing the Complainant's logo and impersonating the Complainant;
- b) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain name;
- c) the configuration of MX servers in relation to the disputed domain name which could indicate the use of the disputed domain name in connection with fraudulent emails;

d) the Respondent's choice to retain a privacy protection service; and

e) the indication of what appear to be false contact details, not being the Center fully able to deliver communications to the Respondent.

Further, previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

For the reasons above, the Respondent's conduct has to be considered, in this Panel's view, as bad faith registration and use of the disputed domain name.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <galex-fr.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: September 20, 2023