

PANEL DECISION

Comité National pour la Sécurité des Usagers de l'Electricité (CONSUEL) v.
Patrick LADREYT, S.E.R.V.I.T.
Case No. DEU2024-0010

1. The Parties

The Complainant is Comité National pour la Sécurité des Usagers de l'Electricité (CONSUEL), France, represented by Coblence Avocats, France.

The Respondent is Patrick LADREYT, S.E.R.V.I.T., France.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <consuel.eu> is the European Registry for Internet Domains ("EURid" or the "Registry"). The Registrar of the disputed domain name is OVH SAS.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 25, 2024. On April 25, 2024, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On April 26, 2024, the Registry transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Respondent sent a communication to the Center on April 28, 2024. The Complainant requested the suspension of the proceedings on May 2, then the reinstatement of the proceedings on May 3, 2024.

The Center verified that the Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the "ADR Rules") and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the "Supplemental Rules").

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 17, 2024. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was June 6, 2024. The Respondent did not submit any response apart from its communication of April 28, 2024.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on June 25, 2024. 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 ADR Rules, Paragraph B(5).

A Panel Order was issued and sent to the Parties on July 25, 2024, to give the Respondent an opportunity to cure the deficiencies of its submission within a period of 7 days. The Respondent did not respond to the Panel Order and did not cure the deficiencies.

4. Factual Background

The Complainant is a French non-profit organisation founded in 1964 and recognized as being of public utility by a French decree dated September 29, 2004.

One of the Complainant's purposes is to support and control the adoption of professional standards within the electricity sector. The Complainant was tasked by the French public authorities to issue electrician certifications.

The Complainant's name is an abbreviation standing for "Comité national pour la sécurité des usagers de l'électricité" ("National Committee for the Safety of Electricity Users").

The Complainant has registered several CONSUEL trade marks including the following:

- French semi-figurative trade mark CONSUEL no. 3945414 registered on March 22, 2013 in classes 9, 11, 38, 41 and 42; and
- French semi-figurative trade mark CONSUEL no. 4690134 registered on December 16, 2022 in classes 9, 11, 16; 35, 38, 41 and 42.

The Complainant has registered several domain names reflecting its CONSUEL trade mark including the domain name <consuel.com> which it registered in 1999.

The disputed domain name was registered on August 20, 2010. The disputed domain name does not point to an active website but it used to redirect to the Respondent's business website which describes the Respondent's business including as an electrician and refers to the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant considers that the disputed domain name is identical to a name in respect of which the Complainant has a right or rights recognized or established by national law of a Member State and/or European Union law.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name. According to the Complainant, there is no legitimate, noncommercial, commercial, or fair use of the disputed domain name by the Respondent. The Complainant points to the past use of the disputed domain name to point to the Respondent's commercial website which offers services in the same sector as the Complainant.

Finally, the Complainant considers that the disputed domain name was registered and is being used in bad faith. The Complainant claims that the Respondent could not have been unaware of the Complainant's prior rights at the time it registered the disputed domain name including because the Respondent chose to

reproduce the Complainant's CONSUEL trade mark identically and because the Respondent's business activities that correspond to the Complainant's business including electrical installation and assistance. The Complainant also asserts that the Respondent is using the disputed domain name in bad faith given the past use of the disputed domain name intended only to attract Internet users to the Respondent's site by creating a likelihood of confusion with the Complainant's CONSUEL trade mark.

B. Respondent

The Respondent did not send a formal response to the Complaint but the Respondent sent a communication to the Center on April 28, 2024 (the "Response").

In its communication the Respondent essentially:

- states that it does not understand the purpose of the proceeding;
- admits that it has registered other domain names reproducing the Complainant's CONSUEL trade mark;
- admits that it knew of the Complainant when it registered the disputed domain name;
- explains that it has made very little use of the disputed domain name; and
- admits that it would be ready to transfer the disputed domain name.

In accordance with the ADR Rules, Paragraph B(3)(d), it appears that the Response contained the following formal deficiencies:

- The Response did not specify a preferred method for communication directed to the Respondent in the ADR Proceeding (including person to be contacted, medium, and address information);
- The Response did not describe, in accordance with these ADR Rules, the grounds on which the Response was made; and
- The Response did not include the statement of Paragraph B(3)(b)(7) followed by the signature of the Respondent.

A Panel Order was issued and sent to the Parties on July 25, 2024, to give the Respondent an opportunity to cure the deficiencies in the Response within a period of 7 days. The Respondent did not respond to the Panel Order and did not cure the deficiencies of the Response.

6. Discussion and Findings

According to Paragraph B(11)(d)(1) of the ADR Rules, the Panel shall issue a decision granting the remedy requested by the Complainant if the latter proves in the ADR proceeding that:

- (i) The disputed domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or European Union law and; either
- (ii) The disputed domain name has been registered by the Respondent without rights or legitimate interest in the name; or
- (iii) The disputed domain name has been registered or is being used in bad faith.

In the present ADR proceeding, the Complainant has pleaded the cumulative existence of the circumstances provided by the ADR Rules (points (i), (ii) and (iii) above). The Panel notes that the ADR Rules list the issues under points (ii) and (iii) as alternative.

A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law

The disputed domain name is identical to the Complainant's CONSUEL trade mark registered in France, which is a right established by a national law of a Member State.

It is well established that “.eu” country code Top-Level-Domain (“ccTLD”) is to be ignored in making the relevant comparison.

Whilst the CONSUEL trade mark was registered after the disputed domain name, it does not matter for the purposes of this element. The only requirement of the ADR Rules is that the Complainant has a subsisting relevant trade mark at the date the Complaint is filed. Of course, the fact that a domain name was registered prior to a trademark being registered may be a factor to be taken into account in assessing legitimate interest and/or bad faith (*airSlate, Inc., airSlate Ireland Limited v. Aria Pour, Bynaric Ltd*, WIPO, Case No. [DEU2023-0021](#)).

Accordingly, the Panel finds that the first condition of Paragraph B11(d)(i) of the ADR Rules has been fulfilled.

B. Rights or Legitimate Interests

Paragraph B11(e) of the ADR Rules provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the disputed domain name:

(1) prior to any notice of the dispute, the Respondent has used the disputed domain name or a name corresponding to the disputed domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;

(2) the Respondent, being an undertaking, organization or natural person, has been commonly known by the disputed domain name, even in the absence of a right recognized or established by national and/or European Union law;

(3) the Respondent is making a legitimate and noncommercial or fair use of the disputed domain name, without intent to mislead consumers or harm the reputation of a name in which a right is recognized or established by national law and/or European Union law.

According to the Complainant, the Complainant has not licensed or otherwise permitted the Respondent to use its CONSUEL trade mark. In addition, the Respondent is not commonly known by the disputed domain name and the Respondent has not provided evidence of use of or demonstrable preparation to use the disputed domain name in connection with a bona fide offering of goods and services. Indeed, the Respondent is currently not using the disputed domain name and used to direct the disputed domain name to its own business website promoting the Respondent’s business including activities similar to the Complainant’s, and referring to the Complainant itself, thus creating a likelihood of confusion and potentially misleading consumers.

Further, the Respondent admitted in an email to the Complainant dated March 6, 2024 in response to a cease-and-desist letter from the Complainant sent on the same day, that the Respondent registers domain names that it redirects to its own business website in the hope that third parties might be interested to buy them. In the same email the Respondent explained that it had not sold the disputed domain name as essentially it did not receive an interesting enough offer. In a further communication dated March 12, 2024, the Respondent added that it could redirect the disputed domain name to the Complainant’s website for an annual fee.

Given the circumstances of this case and the Respondent’s own admissions, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered or Used in Bad Faith

Under Paragraph B(11)(d)(1) of the ADR Rules, (ii) lack of rights or legitimate interests and (iii) registration or use in bad faith are considered alternative requirements.

As the Panel has found that the Respondent lacks rights or legitimate interests in the disputed domain name for the reasons explained under section 6.B. above, no further discussion on bad faith registration or use is necessary. Nevertheless, the Panel will briefly address this third element.

In light of the Complaint, and the annexes, it is clear that the Respondent knew of the Complainant when it registered the disputed domain name and that it deliberately targeted the Complainant in the hope that it would obtain a financial gain from the Complainant.

In terms of use in bad faith, (i) the redirection of the disputed domain name to the Respondent's own commercial website followed by (ii) the absence of use of the disputed domain name further to receipt of the Complainant's cease and desist letter both suggest that the Respondent was using the disputed domain name in bad faith.

Therefore, the Panel finds that, on the balance of probabilities, the disputed domain name was registered or is being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name, <consuel.eu> be transferred to the Complainant.

/Vincent Denoyelle/

Vincent Denoyelle

Sole Panelist

Date: August 6, 2024