

ADMINISTRATIVE PANEL DECISION

Le Byblos v. Yannick Perdreau
Case No. D2022-1254

1. The Parties

The Complainant is Le Byblos, France, represented by Cabinet Lavoix, France.

The Respondent is Yannick Perdreau, Mauritius.

2. The Domain Name and Registrar

The disputed domain name <lescavesduroi.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 April 8, 2022. On April 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 11, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 April 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 10, 2022.

The Center appointed Evan D. Brown as the sole panelist in this matter on May 13, 2022. 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 the proprietor of the well-known discotheque “Les Caves du Roy”, located in the French Riviera’s Hotel Byblos, in operation since 1967. The Complainant owns the trademark LES CAVES DU ROY which it has registered in several jurisdictions, including the European Union (Reg. No 842245, registered on September 9, 1999).

According to the Whois records, the disputed domain name was registered on October 22, 2021. The Respondent has used the disputed domain name to display various versions of a web page called “Backend LCDR” including a version purporting to contain a user login interface. The Complainant asserts that this “backend” use is the equivalent of passive holding of the disputed domain name. The Complainant notes that the term “back-end” corresponds, in the context of web development, to the part that is invisible to the user (as opposed to the “front-end”, which is the part visible to the end user). The Complainant also asserts that on the Registrar’s Whois lookup of the disputed domain name (Annex 2 of the Complaint), the disputed domain name is for sale since the following sentence appears on this page “Whois results: lescavesduroi.com is already registered. Want it? Make an offer now”.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant’s trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (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 Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and, second, whether the disputed domain name is identical or confusingly similar to that mark. This element under the Policy functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the LES CAVES DU ROY mark by providing evidence of its trademark registrations.

The disputed domain name incorporates the LES CAVES DU ROY mark almost in its entirety. This is sufficient for showing confusing similarity under the Policy. The words comprising the disputed domain name differ from the Complainant's mark by only one letter. Both translate into English as "the king's cellars," and both would be pronounced the same.

The Complainant has satisfied this first UDRP element.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant).

On this point, the Complainant asserts, among other things, that: (1) it has not authorized the Respondent to register the disputed domain name, (2) use of the Complainant's mark in the disputed domain name is not a legitimate fair use but rather a misleading use to create a risk of confusion and association with the Complainant, and (3) there is no ascertainable link between the Respondent and the denomination Les Caves du Roi.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing. And nothing in the record otherwise tilts the balance in the Respondent's favor. Specifically, the use of the disputed domain name to display the "Backend LCDR" moniker does not demonstrate any rights or legitimate interests on the part of the Respondent. Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

Because the Complainant's LES CAVES DU ROY mark is well known, and has been registered for many years, the Panel finds it likely that the Respondent was aware of the mark when it registered the disputed domain name. In the circumstances of this case, without the benefit of any explanation whatsoever from the Respondent as to a possible good faith use of the disputed domain name, such a showing is sufficient to establish bad faith registration of the disputed domain name.

The circumstances also demonstrate bad faith use of the disputed domain name in terms of the Policy. Where a disputed domain name is "so obviously connected with such a well-known name and productsits very use by someone with no connection with the products suggests opportunistic bad faith." See, *Parfums Christian Dior v. Javier Garcia Quintas*, WIPO Case No. [D2000-0226](#).

Moreover, the use of the disputed domain name to display various versions of a web page called "Backend LCDR", including a version purporting to contain a user login interface, and the sale of the disputed domain name on the Registrar's Whois lookup of the disputed domain name are evidence of the Respondent's bad faith.

Furthermore, from the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 of the [WIPO Overview 3.0](#)).

The Panel finds that the Complainant has established this third UDRP element.

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 <lescavesduroi.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: May 27, 2022