

ADMINISTRATIVE PANEL DECISION

Coöperatieve Rabobank U.A. v. 1&1 Internet Limited / Moreau Landers
Case No. D2022-2519

1. The Parties

The Complainant is Coöperatieve Rabobank U.A., Netherlands, represented by Novagraaf Nederland B.V., Netherlands.

The Respondent is 1&1 Internet Limited, United Kingdom / Moreau Landers, France.

2. The Domain Name and Registrar

The disputed domain name <rabo-help.com> is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 11, 2022. On July 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 12, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 14, 2022, 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 July 15, 2022.

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 July 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 10, 2022.

The Center appointed Theda König Horowicz as the sole panelist in this matter on August 19, 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 was founded about 130 years ago and is one of the leading banks in Europe which operates in many countries worldwide.

The Complainant owns numerous trademark registrations for RABO worldwide, either alone or with other terms or logos. In particular, the Complainant holds the European Union Trade Mark registration for RABO No. 0920615 of December 21, 2006, which covers International Classes 9, 16, 36, 36, and 38. These marks have been used since 1994.

The Complainant also owns many domain names comprising RABO, including <rabobank.com> which is used to promote Complainant's services.

The disputed domain name was registered on January 11, 2022. It resolves to a website reproducing the layout of the Complainant's website and using the Complainant's trademark, logo, and colors. It also refers to banking services, in particular credit services.

5. Parties' Contentions

A. Complainant

The Complainant alleges to have trademark rights in RABO for many years through its use in commerce and trademark registrations. The disputed domain name wholly incorporates the RABO trademark. The additional element "help" is of secondary importance and does not impact the comparison of conflicting signs. It can actually be seen as a helpdesk website of the Complainant and thus creates a likelihood of confusion amongst the public.

The Complainant states that the Respondent has no rights or legitimate interests in the disputed domain name in view of the Complainant's trademarks and their reputation. The Respondent has no relationship with the Complainant, but the website linked to the disputed domain name falsely gives the impression that the disputed domain name belongs to the Complainant. The Respondent does not have rights in RABO and in the other trademarks comprising RABO with other terms and/or logos owned by the Complainant. The Complainant has earlier rights in RABO, and its trademark being well-known, the Respondent cannot invoke any rights or legitimate interests in the disputed domain name. The litigious website does not contain any disclaimer.

The Complainant contends that the use and registration of the disputed domain name by the Respondent is in bad faith as the Respondent should have been aware of the Complainant's trademark rights in RABO when registering the disputed domain name in 2022. Furthermore, the Respondent is trying to benefit from the reputation that the Complainant acquired with its RABO trademarks over many years and the extensive use and publicity around these marks. The average consumer might indeed be misled in believing that the disputed domain name is operated by the Complainant or at least with the Complainant's approval. In addition, the disputed domain name is used for the financial sector which might infer that it is being used for fraudulent purposes such as phishing. The website notably contains false information (including the contact information such as the phone number, address, etc.) and is conceived in Dutch but does not comply with local regulations. The Respondent's actions also interfere with the Complainant's business and ability to promote its services under its RABO trademark.

B. Respondent

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

6. Discussion and Findings

Under the Policy, in order to prevail, a complainant must prove the following three elements for obtaining the transfer of a domain name:

- (i) that the disputed domain name 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 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 Complainant showed to have trademark rights in RABO through several registrations, including in the European Union where the Respondent is based.

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the domain name. This test 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. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The disputed domain name contains the RABO trademark in entirety. The addition of "-help" at the end of the disputed domain name, does not prevent a finding of confusing similarity, as the RABO trademark remains recognizable in the disputed domain name.

Under these circumstances, the Panel concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights and that the Complainant has established its case under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in the use of a domain name. The list includes:

- (i) the use of the domain name in connection with a *bona fide* offering of goods or services;
- (ii) being commonly known by the domain name; or
- (iii) the making of a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

Once the Complainant establishes a *prima facie* case against the Respondent under this ground, the burden of production shifts to the Respondent to rebut it. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has made some submissions in order to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name, in particular that the Complainant has exclusive rights over RABO, that the Respondent is not known by the said name and that the disputed domain name falsely suggests that it is related to the Complainant's business.

Based on the above, the Panel considers that the Complainant has made a *prima facie* case and the burden of production shifts to the Respondent who has chosen not to reply.

The Panel notes that the case file does indeed not show that the Respondent is commonly known by the disputed domain name or by RABO, a trademark on which the Complainant has rights for many years and which is used without authorization in entirety in the disputed domain name which creates a risk of implied affiliation. Such composition cannot constitute fair use as it effectively suggests sponsorship or endorsement by the trademark owner, particularly with the addition of the term "help". (See section 2.5.1. of the [WIPO Overview 3.0](#)).

The disputed domain name fully incorporates the Complainant's RABO trademark which is widely used in the European Union by the Complainant and which enjoys notoriety in relation to banking and related services. It is therefore difficult to imagine that the disputed domain name legitimately includes the Complainant's trademark in the disputed domain name.

Furthermore, there is no doubt that the Respondent aimed at profiting from the Complainant's name and business, as the disputed domain name is linked to a website prominently using the RABO trademark and logo, without the Complainant's authorization and which promotes services of the same nature than the services offered by the Complainant. Moreover, the website at the disputed domain name contains a loan application form, which in this context, suggests the disputed domain name is being used to impersonate the Complainant in order to obtain sensitive personal or financial information from unsuspecting Internet users. (See section 2.13 of the [WIPO Overview 3.0](#)). It is also to be noted that the website reproduces the look and feel of the Complainant's official website, which reinforces the fact that the Respondent aims at unduly taking profit from the Complainant's trademark and reputation.

Consequently, the Panels finds that the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant has shown to have trademark rights in RABO for many years and for having widely used the said mark in the European Union and on the Internet through its official website "www.rabobank.com".

Therefore, the Respondent knew or should have known about the RABO trademark and business when registering the disputed domain name. See section 3.2.2 of the [WIPO Overview 3.0](#).

The Panel agrees with the Complainant that the bad faith use of the disputed domain name is supported by several findings, notably the absence of any license or permission from the Complainant to use its trademark and the fact that the disputed domain name points to a website copying the look and feel of the Complainant's website. The Respondent obviously leans on the Complainant's notoriety to promote exactly the same type of services, in particular by using the Complainant's trademark and logo without authorization of any kind. As mentioned above, in this context it appears the disputed domain name is being used for *per se* illegitimate activity, which is manifestly considered evidence of bad faith. Moreover, the use of false information in the website linked to the disputed domain name and the absence of response in the present proceedings are additional elements of bad faith.

In light of the above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith and that the Complainant has established its case under 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, <rabo-help.com>, be transferred to the Complainant.

/Theda König Horowicz/

Theda König Horowicz

Sole Panelist

Date: September 9, 2022