

## **ADMINISTRATIVE PANEL DECISION**

Groupe Adeo v. Host Master, Transure Enterprise Ltd  
Case No. D2022-2726

### **1. The Parties**

The Complainant is Groupe Adeo, France, represented by Coblence Avocats, France.

The Respondent is Host Master, Transure Enterprise Ltd, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <leroymerlinadeo.com> is registered with Above.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 26, 2022. On July 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 28, 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 29, 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 amendment to the Complaint on July 29, 2022.

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 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 9, 2022.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on September 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 is the French company Groupe Adeo, specialized in hardware shops. The pioneer company in Groupe Adeo is Leroy Merlin, created in 1923. Leroy Merlin is the leading major DIY retail outlet in home and lifestyle improvement with 21,000 employees in France and 400 stores worldwide.

The Complainant owns various trademarks worldwide consisting of the words “Leroy Merlin” and “Adeo”. For the purpose of this Complaint, the Complainant relies on the following trademarks:

- LEROY MERLIN (word), European Union Trade Mark (“EUTM”) registration No. 10843597, filed on April 27, 2012, and registered on December 7, 2012, for goods and services in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 31, 35, 36, 37, 40, 41, 42 and 44;
- LEROY MERLIN (figurative), EUTM registration No. 11008281, filed on July 2, 2012, and registered on October 2, 2013, for goods and services in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 31, 35, 36, 37, 40, 41, 42 and 44;
- LEROY MERLIN (word), International registration No. 591251 of July 15, 1992, for goods and services in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 16, 17, 19, 20, 21, 22, 25, 27, 28, 31 and 37, designating several countries;
- ADEO (word), French trademark registration No. 3423858, of April 14, 2006, for goods and services in classes 2, 3, 6, 7, 8, 9, 11, 16, 17, 19, 20, 21, 27, 35 and 37;
- ADEO (word), EUTM registration No. 005384731 filed on October 13, 2006, and registered on January 20, 2009, for goods and services in classes 2, 6, 7, 8, 16, 27 and 35;
- ADEO (word), International registration No. 930513, of October 13, 2006, for goods and services in classes 2, 3, 6, 7, 8, 9, 11, 16, 17, 19, 20, 21, 27, 35 and 37.

LEROY MERLIN is among the 50 most valuable trademarks in France.

The Complainant is also the owner of a large number of domain names containing the trademarks LEROY MERLIN or ADEO.

The disputed domain name was registered on June 24, 2022, and leads to a parking page containing pay-per-click links. On July 18, 2022, the Complainant sent a cease and desist letter to the Respondent and the hosting provider of the disputed domain name, requesting to cease any use of the disputed domain name and to transfer it to the Complainant but failed to receive a reply.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant maintains that the disputed domain name is confusingly similar to both its LEROY MERLIN and ADEO trademarks as it includes both of them entirely. The combination, in the disputed domain name, of two of the Complainant’s trademarks determines confusing similarity.

The Complainant further maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. To the best of the Complainant’s knowledge, the Respondent does not own any rights in the trademarks LEROY MERLIN and ADEO. The Complainant is also not affiliated with the Respondent and the Respondent has not been authorized to use the Complainant’s marks or to incorporate them in the disputed domain name. The Respondent is not a licensee of the Complainant and has never had a relationship with it.

The Respondent is not making any legitimate, noncommercial or fair use of the disputed domain name. The disputed domain name leads to a parking page containing pay-per-click links sponsoring the sale of goods sold in the Complainant's shops. Such use, in connection with a domain name that is confusingly similar with the Complainant's trademarks, is likely to arise confusion among the Internet users looking for the Complainant and, as such, cannot provide a right or legitimate interest in the disputed domain name.

Lastly, the Complainant contends that the disputed domain name was registered and has been used in bad faith. Both the extensive reputation of the Complainant's trademarks, and the fact that the disputed domain name consists of the combination of these trademarks, lead to the conclusion that the Respondent was well aware of the Complainant and of its trademarks at the time of the registration of the disputed domain name.

The disputed domain name redirects to a parking page that contains pay-per-click links related to products sold by the Complainant. Therefore, the Respondent is using the disputed domain name to intentionally attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant's trademarks, which is evidence of bad faith registration and use under the Policy.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Complainant has shown that it owns registered rights over the trademarks LEROY MERLIN and ADEO. These rights long predate the registration of the disputed domain name. The Panels finds that the disputed domain name is confusingly similar to both of the Complainant's trademarks as both trademarks are easily recognizable in the disputed domain name.

The Panel further notes that the LEROY MERLIN trademark designates the Complainant's retail stores, while Adeo is the name of the holding company.

Therefore, the Panel is satisfied that the first condition under the Policy is met.

### **B. Rights or Legitimate Interests**

While the overall burden of proof rests with the complainant, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. As such, where a complainant makes a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

In the case at issue, the Complainant has affirmed that it does not have any relationship with the Respondent and that the Respondent is not authorized to register and use a domain name that is confusingly similar to the Complainant's trademarks. Furthermore, the Panel has found no evidence in the file that could demonstrate that the Respondent is commonly known by the name "leroymerlinadeo".

The disputed domain name leads to a parking page with sponsored links including links referring to the same products sold in the Complainant's shops. The Respondent is probably earning an income from each click on the said links. By registering and using the disputed domain name including two renowned trademarks of the Complainant to lead Internet users to a parking page containing links related to the Complainant's activity, the Respondent is taking unfair advantage of the Complainant's LEROY MERLIN and ADEO trademarks. Such use cannot amount to a *bona fide* or noncommercial legitimate use or fair use of the

disputed domain name without intent to misleadingly divert consumers or to tarnish the trademark or service mark at issue, as required by paragraph 4(c)(iii) of the Policy.

In view of the above, the Panel finds that the Complainant has discharged its burden of proof that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The burden of production now shifts to the Respondent to demonstrate that it owns rights or legitimate interests in the disputed domain name. The Respondent has chosen not to file a Response and therefore has failed to contest the Complainant's allegations.

The Panel is therefore satisfied that the second condition under the Policy is met.

### **C. Registered and Used in Bad Faith**

To succeed under the Policy, a complainant must show that a domain name has been both registered and is being used in bad faith.

In relation to registration in bad faith, the Panel agrees with the Complainant that its two trademarks, LEROY MERLIN and ADEO, are inherently distinctive and uniquely associated with the Complainant. Furthermore, the trademark LEROY MERLIN enjoys reputation, at least in those countries where it is substantially used. The reputation of the LEROY MERLIN trademark has been recognized by previous UDRP panels, in various decisions, among which, *Groupe Adeo v. Peter Garcia, Leroy Merlin*, WIPO Case No. [D2016-1451](#); *Groupe Adeo v. Etori Mathieu*, WIPO Case No. [D2021-0503](#); *Groupe Adeo v. Nicolas Malfate*, WIPO Case No. [D2022-2292](#).

Moreover, the Respondent has registered the disputed domain name, which includes two trademarks belonging to the Complainant. This circumstance makes it clear that the Respondent was well aware of the Complainant's marks at the time of the registration of the disputed domain name.

UDRP panels have consistently found that the incorporation of a well-known trademark into a domain name by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

With respect to use in bad faith, the disputed domain name leads to a parking page containing pay-per-click links promoting the sale of goods in competition with some of the Complainant's goods. The Respondent is probably deriving an income from each click on these links. In addition, the Panel notes that the Complainant's evidence shows that the disputed domain name is also offered for sale. The Respondent had the opportunity to avoid this UDRP dispute and to settle the matter amicably with the Complainant, when it received the Complainant's cease and desist letter but rather opted for remaining silent.

In addition, the Panel has noted through its independent search<sup>1</sup> that the Respondent has configured MX-records for the disputed domain name. Consequently, the Respondent is able of sending and receiving emails under the name "leroymerlinadeo".

In light of the above, the Panel concludes that the Respondent has targeted the Complainant's marks, and has been using the disputed domain name, to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's online location, by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's online location, or of a product on the Respondent's location. In addition, the configuration of the MX-records suggests that the disputed domain name may be used for unlawful use.

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<sup>1</sup> Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. See section 4.8 of the [WIPO Overview 3.0](#).

For all the reasons mentioned above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. Therefore, also the third and last condition under the Policy has been met.

## **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 <leroymerlinadeo.com> be transferred to the Complainant

*/Angelica Lodigiani/*

**Angelica Lodigiani**

Sole Panelist

Date: October 2, 2022