

## **ADMINISTRATIVE PANEL DECISION**

Dorval AM v. LOUIS ABREU

Case No. D2022-3902

### **1. The Parties**

The Complainant is Dorval AM, France, represented by Inlex IP Expertise, France.

The Respondent is LOUIS ABREU, France.

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

The disputed domain name <dorval-asset.com> is registered with CloudFlare, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 18, 2022. On October 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 20, 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 November 26, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Respondent made an informal communication to the Center by email on October 26, 2022. The Complainant filed an amended Complaint on October 27, 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 October 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 17, 2022. The Respondent made another informal communication to the Center by email on November 16, 2022.

The Center appointed Alexandre Nappey as the sole panelist in this matter on November 23, 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

First established in 1993, the Complainant, Dorval Asset Management, is a French management company specialized in flexible strategies and European equities. It focuses particularly on long-term performance.

The Complainant owns numerous French, EU and international trademarks including DORVAL or DORVAL ASSET MANAGEMENT FLEXIBLE PAR CONVICTION, among which:

- French trademark registration DORVAL N° 4150568, filed on January 22, 2015,
- EU trademark registration DORVAL N° 013908512, filed on April 3, 2015,
- French trademark registration DORVAL ASSET MANAGEMENT FLEXIBLE PAR CONVICTION (semi-figurative trademark) N° 4239791, filed on January 12, 2016,
- International trademark registration DORVAL ASSET MANAGEMENT FLEXIBLE PAR CONVICTION (semi-figurative trademark) N° 1298659, filed on January 15, 2016.

The disputed domain name <dorval-asset.com> was registered on May 3, 2022 and does not resolve to any active website.

According to the Complaint, the Respondent has used the disputed domain name to create an email address “[XXX]@dorval-asset.com” using the name of an employee of the Complainant and send fraudulent emails offering the subscription to financial placement.

#### 5. Parties’ Contentions

##### A. Complainant

Identity or confusing similarity:

First, the Complainant indicates that the disputed domain name <dorval-asset.com> is confusingly similar with its prior trademarks DORVAL and DORVAL ASSET MANAGEMENT FLEXIBLE PAR CONVICTION: “There is a high visual similarity between the disputed domain name and the Complainant’s trademark DORVAL and derivatives. Indeed, the disputed domain name fully incorporates the Complainant trademark DORVAL”.

The disputed domain name entirely incorporates the Complainant’s mark DORVAL”.

Rights of legitimate interests:

The Complainant claims that:

- the Respondent has no right including trademark rights in respect of the name “dorval-asset”: Louis ABREU does not own any trademark rights for DORVAL-ASSET;
- there is no business or legal relationship between the Complainant and the Respondent: the Complainant has neither authorized nor licensed the Respondent to use its trademarks in any way;
- the disputed domain name <dorval-asset.com> is not used and it is therefore obvious that the Respondent has no legitimate interest in registering or using the disputed domain name.

Bad faith:

Finally, on the third element of the Policy, the Complainant claims that the Respondent acted in bad faith when registering and using the disputed domain name.

- the Complainant alleges that the disputed domain name was registered with the aim of taking advantage of the reputation of the well-known trademark DORVAL and derivatives of the Complainant: the choice of the disputed domain name <dorval-asset.com> cannot be a hazard as it has no meaning. The only reason for having registered this domain is to create a confusion in the public's mind.

- when registering the disputed domain name, the Respondent employed a privacy service in order to hide its identity and to avoid being notified of a UDRP proceeding, which is an inference of bad faith;

- the website at the disputed domain name does not resolve to an active website: it is difficult to conceive of any good faith use to which the disputed domain name could be put;

- the Respondent has also used the disputed domain name to create email address "[XXX]@dorval-asset.com" usurping the identity of Mr. XXX, an employee of DORVAL AM to send fraudulent emails and commit scams.

## **B. Respondent**

On reply to the Complainant's contentions, the Respondent sent the following email to the Center on November 16, 2022:

"I bought the domain name <dorval-asset.com> to resell it to the company DORVAL AM. They never responded to my messages and calls.

I am in my right to have bought this domain, I do not use this domain, I have connected the domain on a mail server precisely so that the company can contact me to buy me this domain.

The Dorval company did not wish to buy this domain through me and preferred to make people believe in identity theft when it was not true. I ask Cloudflare to help me enforce my right to buy a domain for resale.

Dorval is not serious because she used a mutual credit case that was judged and compared it to our case.

I am contesting Dorval's complaint, and I am still selling the domain. The price of the domain is 20,000.00 USD.

Why did the Dorval company not buy this domain before?? I have the right to buy a domain and resell it. It is to allow.

On the other hand, making believe that I am a usurper is defamation.

I require an amicable agreement, otherwise I will file a complaint for defamation, and I will claim damages.

Thank you for your comeback."

## **6. Discussion and Findings**

Having considered the Parties' contentions, the Policy, the Rules, the Supplemental Rules and applicable law, the Panel's findings on each of the above-mentioned elements are the following:

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

The Panel is satisfied that the Complainant owns numerous trademark rights in the name DORVAL. These trademarks are fully reproduced in the disputed domain name <dorval-asset.com>.

Accordingly, the Panel finds that the Complainant has succeeded in showing that the disputed domain name <dorval-asset.com> is identical or confusingly similar to a trademark in which the Complainant has rights.

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

Under the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant has clearly satisfied its burden of evidence here: the Complainant has argued that it does not know the Respondent, is not linked to the Respondent, and that to its knowledge the Respondent has no rights or legitimate interests in the disputed domain name. Besides, the disputed domain name is not used in connection with a *bona fide* offering of goods or services. On the contrary, the Respondent is using the disputed domain name for a phishing scheme which demonstrates a lack of rights or legitimate interests.

Moreover, the Respondent indicated himself to the Center that he bought the disputed domain name in order to resell it (at a high price) to the Complainant.

Furthermore, the composition of the disputed domain name, consisting of the Complainant's trademark DORVAL and the word "asset" which refers directly to the Complainant activity and to its company name), cannot constitute fair use in these circumstances as it carries a risk of implied affiliation and effectively impersonates or suggests sponsorship or endorsement by the Complainant.

The Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent, despite his response to the Center. The Complainant is therefore deemed to have satisfied paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(b) of the Policy identifies, in particular but without limitation, four circumstances which, if found by this Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. Paragraph 4(b) of the Policy reads:

"For the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that you have registered, or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

Each of the four circumstances in paragraph 4(b) of the Policy, if found, would be an instance of “registration and use of a domain name in bad faith”.

Bad faith is obvious in the present case.

- the Respondent had necessarily the Complainant’s trademark in mind when it registered the disputed domain name as it incorporates the trademark DORVAL in its entirety with the addition of the word “asset” which directly refers to the Complainant company name and activity;

- the Respondent explained in his email sent to the Center that he bought the disputed domain name to resell it to the Complainant and that he is still offering it for sale for a price of USD 20,000.00;

These two circumstances indicate that the disputed domain name was registered for a bad-faith purpose of selling to the trademark owner (see Section 3.1.1. of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition([“WIPO Overview 3.0”](#))).

- Moreover, the Complainant produced screenshots showing that the Respondent has operated a phishing scheme impersonating the Complainant: he used of a misleading email address to send fraudulent emails in an attempt to scam the recipients.

Therefore, the Panel finds that the disputed domain name <dorval-asset.com> was registered and is being used by the Respondent in bad faith.

Accordingly, the third criteria set out in paragraph 4(a) of the Policy is also satisfied.

## **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 <dorval-asset.com> be transferred to the Complainant.

*/Alexandre Nappey/*

**Alexandre Nappey**

Sole Panelist

Date: December 9, 2022