

ADMINISTRATIVE PANEL DECISION

LEGO Juris A/S v. Les Amour
Case No. D2023-0799

1. The Parties

The Complainant is LEGO Juris A/S, Denmark, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Les Amour, Germany.

2. The Domain Names and Registrar

The disputed domain names <lego-creative-space.com> and <legocreativespace.com> (the “Domain Names”) are registered with RegistryGate GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 22, 2023. On February 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On February 23, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 6, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On March 6, 2023, the Center transmitted an email in English and German to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on March 8, 2023. The Respondent did not comment on the language of the proceeding. The Complainant filed an amended Complaint on March 8, 2023.

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 March 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 3, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on April 12, 2023. 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 following facts are undisputed.

The Complainant is a worldwide well-known company, famous for its construction toys and other LEGO branded products. The Complainant has subsidiaries and branches throughout the world, and LEGO products are sold in more than 130 countries, including in Germany.

The Complainant is the owner of a number of registrations for the trademark LEGO in various jurisdictions, including but not limited to the following German trademarks (word marks):

- LEGO, registered on April 22, 1963, with registration number 772669;
- LEGO, registered on August 27, 1964, with registration number 287932.

The above-mentioned trademarks will hereinafter in singular be referred to as the "Trademark".

Furthermore, the Complainant owns close to 5,000 domain names incorporating the Trademark, e.g., <lego.com>.

The Domain Names were registered on July 29, 2021, both resolve to a website featuring the LEGO logo and videos and visuals with LEGO products ("Website").

5. Parties' Contentions

A. Complainant

To the extent relevant for rendering a decision, the Complainant contends the following:

The Domain Names are confusingly similar to the Trademark. The dominant part of the Domain Names is a reproduction of the Trademark. The Domain Names comprise the suffix "creative space", which does not diminish the confusing similarity between the Domain Names and the Trademark. The more so now that "creative space" is connected to the Complainant and its operations.

The Respondent has no rights or legitimate interests in respect of the Domain Names. The Respondent has not registered any trademarks or trade names corresponding with the Domain Names. No license or authorization of any kind has been given by the Complainant to the Respondent to use the Trademark. Further, the Respondent is not an authorized dealer of the Complainant's products and has never had a business relationship with the Complainant.

The Respondent is not using the Domain Names in connection with a *bona fide* offering of goods or services. On the contrary, the Respondent is using the Domain Names in an attempt to generate traffic through unauthorized websites which brandish the Trademark.

The Domain Names were registered and being used in bad faith. The Trademark is a well-known trademark with a substantial and widespread reputation throughout the world. Domain name registrations compromising the Trademark in combination with other words have been attractive for domain name "infringers", given the many domain name decisions regarding the Trademark.

The Respondent is using the Domain Names to intentionally attempt to attract Internet users to a website for commercial gain, by creating a likelihood of confusion with the Trademark. Additionally, the Domain Names have been set up with mail exchange (MX) records, showing that the Domain Names may be actively used for email purposes, which serves as an indication of registration and use in bad faith. The Complainant has sent a cease and desist letter to the Respondent. However, the Respondent failed to reply. The Respondent is using a privacy service to hide its identity, which serves as evidence for registration in bad faith.

B. Respondent

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

6.1 Preliminary Issue

The language of the administrative proceeding Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

According to the Registrar's verification response, the Registration Agreement for the Domain Names is in German. Nevertheless, the Complainant filed its Complaint and its amended Complaint in English, and requests that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

The Panel has carefully considered all elements of this case, and considers the following elements particularly relevant: (1) the Complainant's request that the language of the proceeding be English; (2) the lack of any comment on the requested language of the proceeding and the lack of response on the merits of this proceeding by the Respondent; (3) it being clear that the Respondent understands English (based on certain wording used on the Website); and, finally, (4) the fact that German as the language of this proceeding could lead to unwarranted delays and costs for the Complainant.

In view of all these elements, the Panel grants the Complainant's request, and the language of this administrative proceeding shall be English.

6.2 Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (i) the Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) the Domain names have been registered and are being used in bad faith.

Noting the burden of proof on the Complainant, the Respondent's default (*i.e.*, failure to submit a formal response) would not by itself mean that the Complainant is deemed to have prevailed. The Respondent's default is not necessarily an admission that the Complainant's claims are true. See in this regard WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3, "In cases involving wholly unsupported and conclusory allegations advanced by the complainant, or where a good faith defense is apparent (*e.g.*, from the content of the website to which a disputed domain name resolves), panels may find that – despite a respondent's default – a complainant has failed to prove its case. Further to paragraph 14(b) of the UDRP Rules however, panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case *e.g.*, where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent".

A. Identical or Confusingly Similar

The Complainant must demonstrate that it has rights in a trademark and, if so, the Domain Names must be shown to be identical or confusingly similar to the aforementioned trademark.

The Complainant has shown that it has rights in the Trademark.

The Domain Names incorporate the Trademark and add the suffix “creativespace” and “creative-space”. The Panel finds that the Trademark is clearly recognizable within the Domain Names and that the addition of the elements “creativespace” and “creative-space” do not prevent a finding of confusing similarity.

The addition of the generic Top-Level Domain (“gTLD”) “.com” is in this matter irrelevant in the determination of the confusing similarity between the Trademark and the Domain Name, see *Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#); and *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#). See also, *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#): “[T]he fact that a domain name wholly incorporates a Complainant’s registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy despite the addition of other words to such marks.”

Thus, the Panel finds that the Domain Name is confusingly similar to the Trademark.

For all the foregoing reasons, the Panel is satisfied that the first element of the Policy is met.

B. Rights or Legitimate Interests

The Panel has carefully considered the factual allegations that have been made by the Complainant and are supported by the submitted evidence.

In particular, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights to or legitimate interests in the Domain Name, such as:

- (i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Name (as an individual, business or other organization) even if the Respondent has not acquired any trademark or service mark rights; or
- (iii) making legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent does not seem to be affiliated with the Complainant in any way. There is no evidence that the Respondent is, or has ever been, a licensee of the Complainant or that the Respondent is an authorized dealer of the Complainant’s products. Neither has the Respondent been permitted in any way by the Complainant to register or use the Trademark, or to apply for or use any domain name incorporating any of the Complainant’s trademarks. Therefore, the use of the Domain Name cannot be considered a *bona fide* offering of goods and services.

Further, there is no evidence that “Lego” is the Respondent’s (company) name or that the Respondent is commonly known as “Lego”.

The Domain Names currently resolve to the Website. The Panel finds that this Website creates a false impression of being an official website of the Complainant, given the prominent placement of the LEGO logo and official trademark credits. Even if the so-called *Oki Data test* (*Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)) would be applied, the Respondent clearly fails this test as in this case, the

Websites do not accurately or prominently disclose the Respondent's relationship with the Complainant, in particular that it has no particular connection with the Complainant.

Certainly noting that the Respondent has failed to respond to the Complaint and thus has not taken any steps to rebut the Complainant's arguments, the Panel finds that the Respondent lacks rights to or legitimate interest in the Domain Names.

Therefore, the Panel is satisfied that the second element of the Policy is met.

C. Registered and Used in Bad Faith

The Panel refers to its considerations under 6.B and finds that the Domain Names are registered and used in bad faith.

In light of the evidence filed by the Complainant, the Panel finds that the Complainant's Trademark and activities are well known throughout the world. In the Panel's view there is thus no other plausible explanation why the Respondent registered the Domain Names, other than the Respondent being aware of the Complainant and the Trademark and intending to trade off the goodwill and reputation associated with the Complainant. This is also reinforced by the use the Respondent is making of the Domain Names, by having these to resolve to the Website which creates a false impression of being associated with the Complainant.

Additionally, it should be noted that the Domain Names have a mail exchange record (MX record) set up, which entails the possibility that the Respondent is using, or plans to use, the Domain Names to facilitate fraudulent activities, such as phishing, impersonating or passing off as the Complainant.

Although the lack of a reply by the Respondent as such cannot by itself lead to the conclusion that there is use in bad faith, it supports the findings by the Panel.

In light of the above circumstances, the Panel is satisfied that the third element of the Policy is met and that the Domain Names were registered and are being used in bad faith.

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 Domain Names, <lego-creative-space.com> and <legocreativespace.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: April 26, 2023