

ADMINISTRATIVE PANEL DECISION

Centrale Fillers v. ekabe blessed

Case No. D2023-2606

1. The Parties

The Complainant is Centrale Fillers, France, represented by Novagraaf France, France.

The Respondent is ekabe blessed, Cameroon.

2. The Domain Name and Registrar

The disputed domain name <centralesfiller.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 June 16, 2023. On June 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 16, 2023, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 23, 2023 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 June 26, 2023.

On June 26, 2023, the Respondent sent an email communication to the Center specifying that he bought the domain name for a client and if it causes any issues to the Complainant's business, he can have the disputed domain name unregistered. The Center acknowledged receipt of this email and sent a possible settlement email to the Parties on June 27, 2023. The Complainant replied on July 4, 2023 that it does not want the proceeding to be suspended. The Center confirmed on the same day that it would proceed to the notification of the Complaint.

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 July 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 27, 2023. After the notification of the Complainant, the Center received on July 7, 2023 another informal email from the Respondent. Accordingly, the Center notified the Commencement of Panel Appointment Process on August 1, 2023.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on August 7, 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 Complainant is a company incorporated in France, operating in the field of aesthetic medicine, which owns several active trademarks comprising the terms CENTRALE FILLERS (the CENTRALE FILLERS trademarks), including:

- French semi-figurative trademark CENTRALE FILLERS ACIDE HYALURONIQUE BOUTIQUE EN LIGNE No. 4527890 registered on February 22, 2019 in classes 10, 35 and 38; and
- European Union semi-figurative trademark CENTRALE FILLERS ACIDE HYALURONIQUE BOUTIQUE EN LIGNE No. 018326880 registered on March 27, 2021 in classes 10 and 35.

The Complainant operates the domain name <centralegillers.com>.

The disputed domain name <centralegiller.com> was registered by the Respondent on March 11, 2023 and displayed a copy of the previous layout of the Complainant's authentic domain name.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its CENTRALE FILLERS trademarks, as the disputed domain name fully incorporates its trademarks. Additionally, the removal of the letter "s" does not suffice to distinguish the disputed domain name from the Complainant's trademarks and that the domain name remains confusingly similar to the Complainant's trademarks.

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as the Respondent does not own any trademark on the denomination and has not been authorized by the Complainant to use its CENTRALE FILLERS trademarks.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith as they have created a mirror image of the Complainant's website on the disputed domain name for the sole purpose of sending fraudulent emails to customers pretending to be the Complainant to request payment. The usurpation of identity of the Complainant for fraudulent purposes is a clear indication that the disputed domain name has been registered and used in bad faith.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. In the Respondent's email communications, he claimed that he bought the disputed domain name for a client, but that he could discuss it with his client and have it unregistered. On a second email communication, the Respondent said that "I already agreed to transfer the domain name. Contacted namecheap to do the transfer, I emailed the complainant but they haven't replied yet. I have no interest in keeping the domain name."

The Panel notes that the Respondent did not provide any information about the identity of his alleged client, and that in a second email communication the Respondent was implicitly referring to himself as the holder of the disputed domain name.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the UDRP, the Complainant must demonstrate that the disputed domain name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

On the basis of the evidence presented, it is established that the Complainant owns several CENTRALE FILLERS trademarks, where the dominant elements are the terms CENTRAL FILLERS. The disputed domain name reproduces the Complainant's CENTRALE FILLERS trademarks, with the removal of the final letter "s". Previous UDRP panels have consistently held that, in circumstances where the disputed domain name incorporates the entirety of a trademark or its dominant feature is recognizable, the disputed domain name will be considered confusingly similar to the trademark (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7; *Fondation Le Corbusier v. Monsieur Bernard Weber, Madame Heidi Weber*, WIPO Case No. [D2003-0251](#); and *Bayerische Motoren Werke AG ("BMW") v. Registration Private, Domains By Proxy, LLC / Armands Piebalgs*, WIPO Case No. [D2017-0156](#)). This finding of confusing similarity is not prevented by minor variations such as the removal of a final "s" ([WIPO Overview 3.0](#), section 1.8; *St. Baldrick's Foundation Inc. v. Web Advertising, Corp.*, WIPO Case No. [D2007-0707](#)).

Additionally, it is well-established that the generic Top-Level Domain ".com" is typically not taken into account for the purpose of assessing confusing similarity under the Policy, as it is merely a standard registration requirement ([WIPO Overview 3.0](#), section 1.11).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, evidence of the Respondent's rights or legitimate interests in the disputed domain name for the purposes of paragraph 4(a)(ii) may be established, in particular, by any of the following circumstances:

- (i) prior to becoming aware of the dispute, the Respondent has used the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services, or made demonstrable preparations to do so;
- (ii) the Respondent is commonly known by the disputed domain name in question, even without having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name without intent to misleadingly divert consumers for profit by creating confusion or to tarnish the trademark or service mark at issue.

Where the Complainant establishes *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of production on this element shifts to the Respondent and it is up to the Respondent to provide relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the Respondent does not provide such relevant evidence, the Complainant is deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

In this case, the Complainant has provided evidence that the disputed domain name is abusive of its trademark rights, since it is being used in connection with a claimed fraudulent scheme to impersonate the Complainant. In particular, it seems likely that the Respondent is using the disputed domain name in furtherance of an illicit scheme to deceive visitors of the disputed domain name into making payments to the Respondent. The Panel finds that such use can never confer rights or legitimate interests on the Respondent ([WIPO Overview 3.0](#), section 2.13).

The Complainant has established that the Respondent does not have rights or legitimate interests in the disputed domain name. The Panel concludes that the second condition of paragraph 4(a) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides circumstances, in particular but without limitation, that shall be evidence of a disputed domain name being registered and used in bad faith – including the circumstance that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the disputed domain name, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name or location or of a product or service on the disputed domain name.

In addition to the circumstances provided in paragraph 4(b) of the Policy, the Panel may also consider special circumstances such as (i) the nature of the domain name (e.g., a typo of a widely known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term), (ii) a clear lack of rights or legitimate interests coupled with the absence of a credible explanation for the respondent's choice of domain name, or (iii) other *indicia* generally suggesting that the respondent has targeted the complainant in some way ([WIPO Overview 3.0](#), section 3.2.1).

Furthermore, bad faith is demonstrated where the Respondent registered the disputed domain name with the aim of using it for unlawful purposes, taking advantage of attempts to solicit commercial transactions with third parties while impersonating the Complainant and creating a likelihood of confusion (WIPO Overview, 3.0, section 3.4; *Minerva S.A. v. TT Host*, WIPO Case No. [D2016-0384](#); and *BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#)).

The disputed domain name was registered on March 11, 2023, which is subsequent to the registration of the Complainant's CENTRALE FILLERS trademarks in 2019 and 2021.

In this case, evidence submitted by the Complainant suggests that the Respondent has registered and used the disputed domain name to impersonate the Complainant by deceiving and misleading the public to believe they are visiting the authentic domain name of the Complainant, as well as fraudulently requesting payments from customers of the Complainant and/or visitors of the disputed domain name. Seeing as it appears that the Respondent used the disputed domain name for fraudulent purposes and has not provided any explanation as to his registration and use of the disputed domain name, the Panel finds that the disputed domain name has been registered and used in bad faith (*The Prudential Assurance Company Limited v. Prudential Securities Limited*, WIPO Case No. [D2009-1561](#)).

For the reasons set out above, the Panel considers that the requirement of registration and bad faith use of the disputed domain name set out in paragraph 4(a)(iii) of the Policy is 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 <centralearfiller.com> be transferred to the Complainant.

/Benoit Van Asbroeck/

Benoit Van Asbroeck

Sole Panelist

Date: August 21, 2023