

ADMINISTRATIVE PANEL DECISION

Ludendo SAS, Joueclub Entente des Professionnels Specialistes de L'enfant
v. Agim Mulakaj, Tony Oconner, Colin Derby
Case No. D2023-5367

1. The Parties

The Complainants are Ludendo SAS and Joueclub Entente des Professionnels Specialistes de L'enfant, France, represented by Novagraaf France, France.

The Respondents are Agim Mulakaj, Tony Oconner, both from United States of America ("United States"), Colin Derby, China.

2. The Domain Names and Registrar

The disputed domain names <lagranderecredits.shop>, <lagranderecreoutlet.shop> and <lagranderecreshop.shop> are registered with Dynadot Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 27, 2023. On December 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 28, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 2, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on January 5, 2024.

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 January 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 31, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on February 2, 2024. 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 in 1977 and has become, in the last decades, one of the popular toys shops with more than 112 shops in France and other countries. Since June 2023, the Complainant Joueclub Entente des Professionnels Specialistes de L'enfant is the new owner of the Complainant Ludendo SAS and of the trademarks LA GRANDE RECRE, and therefore they will be collectively referred to as the Complainant.

The Complainant owns worldwide trademark registrations for the LA GRANDE RECRE mark, such as the following:

- the International trademark registration number 1103832 for LA GRANDE RECRE (word), registered on November 14, 2011, for goods and services in International classes 9, 12, 16, 25, 28, 35, 41; and
- the International trademark registration number 778737 for LA GRANDE RECRE (design), registered on December 19, 2001, for goods and services in International classes 28, 35 and 41, and designating numerous jurisdictions worldwide including China.

The Complainant owns domain names incorporating the mark LA GRANDE RECRE, such as <la-grande-recre.com> registered on December 9, 1999; <lagranderecre.com> registered on December 27, 1999; <lagranderecre.fr> registered on December 29, 1999; and <lagranderecre.net> registered on July 7, 2014.

All the disputed domain names were registered as follows:

- <lagranderecrediscunts.shop> on December 7, 2023;
- <lagranderecreoutlet.shop> on December 6, 2023; and
- <lagranderecreshop.shop> on December 8, 2023.

At the time of filing the Complaint and as of this Decision, all the disputed domain names are directed to error pages. According to the Complainant's allegations, prior to the present proceedings it sent a request to the Registrar asking to shut down the websites under the disputed domain names which were used in relation to marketing of toys. The Registrar did not respond to the Complainant's letter but complied with its request.

According to Annex 11 to the Complaint, on December 15, 2023, the disputed domain names were directed to commercial websites, reproducing integrally and identically the content from the Complainant's official website, displaying the Complainant's trademarks and product images, where various toy products were advertised and offered for sale at highly discounted prices, and no disclaimer was provided.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its trademark, domain name and trade name as they incorporate the trademark LA GRANDE RECRE with additional terms, used to designate usual marketing practices; the trademark LA GRANDE RECRE enjoys a high notoriety in France; the Respondent has no rights or legitimate interests in the disputed domain names; and the Respondent registered and is using the disputed domain names in bad faith to direct Internet users to commercial websites, which, as of December 15, 2023 were used in relation to marketing of toys and were displaying, without authorization, the LA GRANDE RECRE trademark and logo and were reproducing the content available at the Complainant's official website "www.lagranderecre.fr".

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondents have no rights or legitimate interests in the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain names registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the disputed domain names: (i) were linked to webpages with identical content; (ii) were registered in a relative short period of time, within a timeframe of three consecutive days; (iii) were registered with the same Registrar and hosted by the same hosting provider; (iv) have the same composition reproducing exactly the Complainant's trademark (without the space between words, as per the specific technical requirements in the domain name field) combined with terms related to the Complainant's industry and all used the same generic Top-Level Domain ("gTLD"), ".shop".

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

B. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (here “outlet”, “discounts”, “shop”) may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

According to the evidence provided in the Complaint, the Respondent has used the disputed domain names in connection with websites promoting and offering for sale goods identical to those of the Complainant with significant price reductions, reproducing the Complainant’s trademark and logo, and without providing any disclaimer. Panels have held that the use of a domain name for illegal activity (such as the sale of counterfeit goods or impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Further, the composition of the disputed domain names which combines the Complainant's trademark with terms referring to the Complainant's activity or otherwise, suggests an affiliation with the Complainant. UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

D. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the disputed domain names were registered in bad faith, with knowledge of the Complainant and its trademark particularly because the registration of the trademarks by the Complainant significantly predates the registration of the disputed domain names, the short timeframe of registration, and mostly, because of their composition. Furthermore, the use of the disputed domain names, which is intended to effectively impersonate the Complainant, enforces such finding.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] 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 [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

According to the evidence in the Complaint and unrebutted by the Respondent, the disputed domain names were used to copy the content from the Complainant's official website, to display the Complainant's trademark and logo, providing, potentially, counterfeit products of the Complainant, indeed in this Panel's view, the Respondent has intended to attract Internet users accessing the websites corresponding to the disputed domain names who may be confused and believe that the websites are held, controlled by, or somehow affiliated with or related to the Complainant, for the Respondent's commercial gain. This activity may also disrupt the Complainant's business and tarnish its trademark.

The Panel finds the third element of the Policy has been established.

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 names <lagranderecreditscounts.shop>, <lagranderecreoutlet.shop> and <lagranderecreshop.shop> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: February 16, 2024