

ADMINISTRATIVE PANEL DECISION

OLINDA v. LCD MOGUET

Case No. D2024-3339

1. The Parties

The Complainant is OLINDA, France, represented by Blanche Avocats, France.

The Respondent is LCD MOGUET, France.

2. The Domain Name and Registrar

The disputed domain name <olindaqonto.com> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 14, 2024. On August 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 16, 2024, 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 19, 2024, 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 amended Complaint on August 20, 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 August 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 12, 2024.

On September 16, 2024, the Center sent an email communication to the Complainant providing the registrant and contact information disclosed by the Registrar for the domain name <qonto.website> and inviting the Complainant to submit an amendment to the Complaint. On September 18, 2024, the Complainant filed an amended Complaint and requested to no longer include the domain name <qonto.website> in the proceeding. On September 19, 2024, the Center proceed with the Notification of (Requested) Partial Withdrawal.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on September 26, 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 is a French FinTech Company providing online account and payment services along with financial and accounting management tools.

The Complainant is the owner of several registered trademarks incorporating its business name (the “Qonto Trademarks”):

- the European Union wordmark QONTO No. 1372018 registered on March 3, 2017, for services in classes 36 and 42 ;
- the French wordmark QONTO No. 4297016 registered on September 6, 2016, for products and services in classes 9, 36 and 42.

The Complainant is also the owner of the domain name “qonto.com” of its official website and of several domain names incorporating its incorporation name (i.e., OLINDA) and its QONTO Trademarks such as <olinda.co> and <qonto.fr>.

The disputed domain name was registered on December 27, 2023, and used to redirect to a login page inviting users to enter their login and password. At the time of the Decision, the disputed domain name is inactive.

The Respondent appears to be a legal person established in France.

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 name.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to its QONTO Trademarks. The Complainant submits its QONTO Trademarks are widely known by the public and that the disputed domain name wholly incorporates them. The Complainant considers Internet users will be misled into believing that the website exploited under the disputed domain name is owned or authorized by the Complainant. The Complainant asserts the likelihood of confusion between the Complainant and the disputed domain name is reinforced by the fact the disputed domain wholly reproduces its incorporation name and its business name which consists of the QONTO Trademarks. The Complainant underlines the Respondent used the disputed domain name to exploit a fraudulent website for phishing purposes in order to obtain login credentials and sensitive information from Internet users.

Then, the Complainant submits the Respondent has no rights or legitimate interests in respect of the disputed domain name since it does not hold and cannot hold any right or legitimate interests in the QONTO Trademarks or the Complainant's incorporation name. The Complainant has not authorized nor granted licenses to the Respondent on the QONTO Trademarks to register the disputed domain name. The Complainant underlines the Respondent does not own any trademarks connected to the disputed domain name. Furthermore, the Complainant contends the Respondent does not make a legitimate noncommercial or fair use of the disputed domain name and on the contrary tries to falsely suggest an affiliation with the Complainant. The Complainant stands the dispute domain name appears to be part of a fraudulent phishing system.

Finally, the Complainant submits the disputed domain name was registered and is being used in bad faith. The Complainant states that the Respondent knew about the Complainant, when registering the disputed domain name, and sought to take unfair advantage of its reputation, investments and Internet referencing. The Complainant asserts the disputed domain name redirects to a fraudulent website consisting of a login page inviting users to enter their actual login and password to their official accounts which expose them at risk of being scammed.

B. Respondent

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

6. Discussion and Findings

A. 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 name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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 name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "olinda", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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.

B. 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 name. 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 name such as those enumerated in the Policy or otherwise.

Indeed, it appears that the Respondent has not received any authorization to use the QONTO Trademarks in any manner, including for the registration of domain names, and that the Respondent is not affiliated with nor authorized by the Complainant in any way. The term "olinda" is an identical reproduction of the Complainant's incorporation name. The Panel considers the association of the Complainant's incorporation name with its QONTO trademarks only reinforce the Internet users' confusion.

Moreover, the Complainant has demonstrated that the disputed domain name, which is inactive at the time of the Decision, used to redirect to a login page trying to illegally obtain official login credentials from Internet users.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: unauthorized account access/hacking, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

C. 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 Respondent has targeted the QONTO Trademarks on purpose and used the disputed domain name to try to obtain official login credentials to the Complainant's service in order to access/hack Internet users' account. The Panel notes the Respondent appears to have given a fake identity when registering the disputed domain name since no company is registered under the name given and the Panel cannot find a trace of the Respondent on online search engines.

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.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

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 <olindaqonto.com> be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: October 4, 2024