

## ADMINISTRATIVE PANEL DECISION

Cromology Services (Groupe Tollens) v. theo bonin  
Case No. D2024-4794

### 1. The Parties

The Complainant is Cromology Services (Groupe Tollens), France, represented by Cabinet Germain & Maureau, France.

The Respondent is theo bonin, France.

### 2. The Domain Name and Registrar

The disputed domain name <couleurs-de-tollens.com> is registered with Spaceship, Inc. (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 20, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on November 21, 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 service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 21, 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 November 22, 2024. The Respondent sent two informal email communications on November 22, 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 November 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 19, 2024. Aside from an informal communication, the Respondent did not submit any formal response. Accordingly, the Center notified the commencement of Panel Appointment Process on December 26, 2024.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on January 3, 2025. 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 group of companies specialized in the design, manufacture, and distribution of a wide range of paints and other decorative products for professionals and private individuals.

The Complainant's company dates back to 1748.

The Complainant is the owner of a large portfolio of trade marks in the terms TOLLENS and COULEURS DE TOLLENS including the following:

- European Union Trade Mark TOLLENS No. 009867052, registered on September 8, 2011 and;
- International Registration No. 866282, COULEURS DE TOLLENS (figurative), registered on October 13, 2005.

The Complainant is also the owner of several domain names reflecting its trade marks including <couleursdetollens.com> which the Complainant registered in 2002. The Complainant used to be the owner of the disputed domain name but the Complainant let it lapse.

The disputed domain name was registered on October 20, 2024, and it points to a website relating to DIY including painting and decoration and referring to a number of DIY companies such as Castorama and Brico Dépôt. The Respondent's website also contains many videos and links to third party Instagram and YouTube accounts.

#### **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 to its COULEURS DE TOLLENS trade mark.

The Complainant asserts that the Respondent is not affiliated to the Complainant and has not received any authorization to use the Complainant's trade mark. The Complainant adds that the disputed domain name is used for a website relating to products and services that are identical to those of the Complainant.

The Complainant highlights the fact that the term "tollens" is purely arbitrary, non-generic and intrinsically associated with the Complainant as shown by a Google search for the term "tollens". The Complainant also points to the fact that the disputed domain name mimics the Complainant's <couleursdetollens.com> domain name. The Complainant has produced evidence that it used to own the disputed domain name and asserts that it let it lapse by mistake. The Complainant argues that the disputed domain name was registered to unduly generate traffic to the Respondent's website and to leverage the Complainant's past Search Engine Optimization (SEO) efforts.

## **B. Respondent**

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name. The Respondent claims that the disputed domain name was available for registration and was conducted legally. He claims that the disputed domain name is not misleadingly similar to the Complainant's trade mark. The Respondent explains that he registered the disputed domain name without any intention to target the Complainant and simply because the Respondent has a general interest in DIY and home decoration. The Respondent declares that he did not try to sell the disputed domain name and that he has not taken any action that could damage the image or activity of the "Tollens" brand

## **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 trade mark 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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the COULEURS DE TOLLENS trade mark is reproduced within the disputed domain name.

Accordingly, the disputed domain name is identical to the COULEURS DE TOLLENS trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

Although the Respondent submitted an informal response to the Complaint, the Respondent failed to offer even the most remote explanation as to why it chose to identically reproduce the distinctive COULEURS DE

TOLLENS trade mark of the Complainant to point to a website that clearly targets the Complainant's sector of industry, and includes links to competitors.

The COULEURS DE TOLLENS and TOLLENS trade marks are distinctive, fanciful, arbitrary and almost exclusively associated with the Complainant (including as suggested by the results of a Google search produced as evidence by the Complainant). Thus, the Panel finds that the Respondent's claim that it merely registered the disputed domain name because of a general interest in DIY without any intent to take advantage of the Complainant, as merely self-serving and inherently not credible. [WIPO Overview 3.0](#), section 2.2.

In addition, UDRP panels have generally found that domain names identical to a complainant's trade mark, as is the case here, carry a high risk of implied affiliation. Given the overall circumstances of the present case, including the absence of any form of disclaimer on the Respondent's website, it would not be clear to Internet users visiting the Respondent's website that it is not operated by the Complainant, quite the opposite in fact. [WIPO Overview 3.0](#), section 2.5.1.

In light of the above, the Panel finds that the Respondent's registration and use of the disputed domain name cannot qualify as either (i) prior use, or demonstrable preparations to use the disputed domain name, in connection with a bona fide offering of goods or services or (ii) a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark at issue.

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 disputed domain name reproduces the exact COULEURS DE TOLLENS trade mark of the Complainant and this cannot be a coincidence. This is even more likely given (i) the fact that the trade mark of the Complainant – which is not descriptive – is reproduced identically in the disputed domain name, (ii) the fact that the disputed domain name was registered relatively recently and many years after the registration of the Complainant's trade marks and (iii) the Respondent's knowledge of and affinity with the Complainant's business sector.

Thus, the Panel finds that the disputed domain name was registered in bad faith.

As for use of the disputed domain name in bad faith, given the circumstances described in the Complaint and the documentary evidence provided by the Complainant, the Panel is satisfied that the disputed domain name is used in bad faith.

The Panel considers that there is no conceivable explanation, including in the Respondent's submission, as to how the Respondent's use of the disputed domain name could possibly qualify as use in good faith. Indeed, the Respondent decided to register the disputed domain name by identically reproducing the Complainant's distinctive and arbitrary COULEURS DE TOLLENS trade mark and to point the disputed domain name to a website that precisely targets the Complainant's business sector, without any disclaimers, and referring to third party businesses that distribute the Complainant's products and those of competitors. The Respondent's website also contains many videos and links to third party Instagram and YouTube accounts.

The Panel finds that, as per paragraph 4(b)(iv) of the Policy, by using the disputed domain name, the Respondent has intentionally attempted 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.

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 <couleurs-de-tollens.com> be transferred to the Complainant.

*/Vincent Denoyelle/*

**Vincent Denoyelle**

Sole Panelist

Date: January 13, 2025