

ADMINISTRATIVE PANEL DECISION

Syndicat des Vins Côtes de Provence v. Pascal Leemann-Pluot
Case No. D2024-5223

1. The Parties

The Complainant is Syndicat des Vins Côtes de Provence, France, represented by Selarl Marchais & Associés, France.

The Respondent is Pascal Leemann-Pluot, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <cotesdeprovence.com> is registered with eNom, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 19, 2024. On December 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 19, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 20, 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 December 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 December 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 17, 2025.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on January 23, 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

Established in 1933, the Complainant is the union of winegrowers, cooperative wineries and, more generally, all operators in the Côtes de Provence “Appellation d'Origine Contrôlée AOC” (registered designation of origin) area tasked with defending the Côtes de Provence appellation of origin in the field of wine. The Complainant notes that today its catchment area includes 84 communes in Var and Bouches-du-Rhône departments, France. The 2022 production is stated to be equivalent to 130 million bottles of wine. 372 private wineries, 38 cooperative cellars and over 100 negociants are said to be involved, with 5,000 direct and 20,000 indirect jobs supported, generating approximately EUR 570 million in revenue and EUR 1.2 billion in consumer sales. The Complainant notes that Côtes de Provence wines regularly feature in wine rankings and media articles. The Complainant adds that it has been recognized as the defense and management organization of the registered designation of origin.

The Complainant states that the Appellation d'Origine Contrôlée (AOC) “Côtes de Provence”, was initially recognized by the [French] decree of October 24, 1977 modified by the “Arrêté” (decree) of December 22, 2021 modifying the specifications of the Appellation d'Origine Protégée (AOP) “Côtes de Provence”. The Complainant adds that under European Union legislation, notably Regulation (EU) No 1151/2012, an Appellation d'Origine Contrôlée (AOC), recognized at the national level in a Member State, is automatically eligible for registration as a Protected Designation of Origin (“PDO”) at the European level.

The Complainant is the owner of French Registered Trademark number 1432164 in respect of a figurative mark (“Marque sans texte”) featuring an image of a bottle of wine, registered on December 30, 1986 in Class 33. Said mark is held in the Complainant’s former name, SYNDICAT DE DEFENSE DES VINS “COTES DE PROVENCE”. This mark is described on INPI’s official website as “Renouvellement du depot opere le:30 JUIN 1976 A L'I.N.P.I. No 222031 ET ENREGISTRE SOUS LE No 952843”, i.e., a renewal of a mark originally registered as number 952843. Said mark numbered 952843 was also in the Complainant’s former name and was originally registered in respect of the word mark COTES DE PROVENCE, on June 30, 1976 in Class 33. However, this mark is described on the register as “non en vigueur” (not in force) and is cross-referenced to the said figurative mark number 1432164. As far as the Panel can tell, therefore, the Complainant no longer possesses the word mark variant, and this would explain why the Complainant did not cite it as such for present purposes.

The Complainant is also the owner of French Registered Trademark number 3753570 in respect of a semi-figurative mark featuring an image of a vineyard overlaid with the letters CP (beneath which are the words SYNDICAT DES VINS COTES DE PROVENCE MAISON DES VINS RN7 83460 LES ARCS TEL [telephone number] FAX [fax number], E-MAIL [email address]). This mark was registered on July 13, 2010 in Class 33. Notwithstanding the presence of the additional details superimposed upon the graphical element, the word element of this mark is listed as SYNDICAT DES VINS COTES DE PROVENCE.

The Complainant is the owner of at least three domain names featuring the term “cotesdeprovence”, namely <cotesdeprovence.fr> registered on May 17, 2004, <odg-cotesdeprovence.fr> registered on November 2, 2009, and <odg-cotesdeprovence.com> registered on November 2, 2009. The Complainant states that an entity “Le Caveau de la Maison des Vins Côtes de Provence”, of which the Complainant holds 100 per cent of the capital, is an extension of its mission, and that this entity also owns a variety of domain names containing the same term, such as for example, <côtesdeprovence.wine> registered on September 7, 2018.

The disputed domain name was registered on January 29, 2007. Nothing is known about the Respondent, which has not participated in the administrative proceeding, beyond the fact that it appears to be a private individual with an address in New Jersey, United States. According to the Complainant’s screenshot dated

December 12, 2024, the website associated with the disputed domain name features pay-per-click advertising links, namely “Cave à Vin Réfrigérée” (refrigerated wine cellar), “Caviste en Ligne” (online wine merchant), and “Vin à Livrer” (wine for delivery). The Panel visited said website on January 23, 2025, and noted similar PPC links, albeit in English, suggesting the results are geo-targeted. The advertising links in this case were “Cote de Provence Rose”, “Specs Wine”, and “Personal Wine”.

Although neither of the Parties specifically raises the point, the Panel is aware from its own knowledge that “Cotes de Provence” is not strictly a geographic term, in the sense that it is not a geographic location or administrative/governmental region. It is a wine region having, as the Complainant notes, a “catchment area”. As the Complainant’s Annex 5 shows, this area can be geographically located on a map. The word “Provence”, on its own, is a geographic term denoting a historical province 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 identically reproduces the dominant element of the earlier trademarks and domain names, being the denomination COTES DE PROVENCE. The Complainant adds that it is a key organization in the wine industry and has invested substantial resources in promoting its appellation internationally for over 45 years. The Complainant concludes that the disputed domain name comprises an exact reproduction of the dominant part of the Complainant’s earlier rights followed by the “.com” suffix, with said suffix falling to be disregarded for comparison purposes. The Complainant concludes that the disputed domain name is confusingly similar to the trademarks, domain names, and appellation over which the Complainant has rights.

The Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name as it has no resemblance to the said denomination, adding that the Complainant has never licensed nor otherwise authorized the Respondent to use its trademarks or register any domain name containing the dominant part thereof, and that there is no relationship between the Parties. The Complainant submits that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, and that the PPC use thereof demonstrates that the Respondent seeks commercial gain, such that the Respondent cannot claim to be making a noncommercial use.

The Complainant contends that the registration of the disputed domain name by the Respondent is not a mere coincidence, adding that the Respondent has availed itself of a privacy service and does not have a legitimate interest in holding the disputed domain name, and that the Respondent is likely to have had constructive, if not actual notice of the Complainant’s rights when it registered the disputed domain name. The Complainant notes that at the time of the registration of the disputed domain name, the Complainant’s appellation had been in existence for over 30 years, and already was famous worldwide, adding that the Respondent could not have been unaware of the Complainant’s prior rights, nor that the Respondent was privately appropriating a collective sign by registering the disputed domain name. The Complainant submits that the Respondent has deprived the Complainant of the legitimate use of the disputed domain name since the disputed domain name consists solely of the appellation concerned, adding that this suggests that the Respondent acted with opportunistic bad faith in registering the disputed domain name for illegitimate use, and that the Respondent must have been aware of the risk of deception and confusion that would arise from the registration of the disputed domain name.

The Complainant asserts that given the famous nature of the marks and denomination COTES DE PROVENCE, the Respondent must have been aware of its appellation, and necessarily acted in bad faith in using the disputed domain name. The Complainant contends that the use of the disputed domain name to divert Internet users to a typical parking page with links to commercial websites takes undue benefit of the

Complainant's reputation for commercial profit, in that the sponsored links are directly related to the Complainant's activities, clearly demonstrating intent to exploit the Complainant's reputation and goodwill, and attracting Internet users who are likely to assume an affiliation or connection with the Complainant, thereby creating confusion for commercial gain. The Complainant adds that Internet users may be led to believe that the Complainant is not active on the Internet or that it is out of business, or that the appellation no longer exists, adding that the link to alcoholic products could damage the Complainant's image if it does not comply with the appropriate regulations governing the sale of such products.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel has no reason to disbelieve the Complainant when it asserts that its appellation carries certain rights under French and European Law regarding an appellation of origin, or a protected designation of origin, or geographical identifier. Such rights would not, however, by themselves, give rise to rights in a trademark as required by the wording of the Policy (see, for example, the extensive discussion of the subject in connection with the designation "Champagne" in *Comité Interprofessionnel du vin de Champagne v. Steven Vickers*, WIPO Case No. [DCO2011-0026](#), in which the panel noted that "geographical indications, as such, remain outside the scope of the Policy". The panel in *Regulatory Board of the Rioja Qualified Designation of Origin (D.O.CA) v. Domain Hostmaster, Customer ID: 43528876679114, Whois Privacy Services Pty Ltd / Privacy.co.com, Inc Privacy ID# 1027108 / Kevin Daste*, WIPO Case No. [D2018-0168](#), concerning the designation "Rioja" likewise agreed with the panel in the "Champagne" case on this particular topic).

The Complainant does however show that it has rights in two semi-figurative trademarks. The first of these, French Registered Trademark number 1432164 in respect of a figurative mark featuring an image of a bottle of wine, contains no textual elements that could be compared with the disputed domain name (see the [WIPO Overview 3.0](#), section 1.10 on the appropriate method of comparison). It may therefore be disregarded for present purposes.

The second semi-figurative trademark, French Registered Trademark number 3753570, more fully described in the factual background section above, does contain textual elements. These can be severed from the graphical element according to the [WIPO Overview 3.0](#), section 1.10. As noted in the factual background section, despite the presence of additional words superimposed upon the image, the word element of this mark is stated in the registration details to be SYNDICAT DES VINS COTES DE PROVENCE. Comparing this to the disputed domain name, absent the ".com" suffix, as is customary in such comparisons for Policy purposes, only the "cotesdeprovence" element is found to be present in the disputed domain name. Accordingly, only a limited portion of the textual component of the Complainant's mark is identifiable in the disputed domain name. Is, then, the mark recognizable in the disputed domain name, for example, as discussed in [WIPO Overview 3.0](#), section 1.7? This section notes that the test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark, and that where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The Complainant argues that COTES DE PROVENCE is the dominant part of the above French registered trademark but does not set out in detail how or why in its view it would be reasonable for the Panel to reach that conclusion. No specific explanation has been put forward by the Complainant as to why the COTES DE PROVENCE element in particular should be taken as dominant, and it cannot be held as such purely because the Complainant says so without further elaboration. In the absence of any methodology that might have been suggested by either of the Parties, the Panel considers that there are two possible views. The

first is that the SYNDICAT DES VINS element is potentially the same descriptor that would be found in all organizations of this nature, and that the element denoting the wine region is the part that would change between such organizations, thus rendering the COTES DE PROVENCE element as dominant. However, the Panel has no information before it confirming that all or even more than one such organization is or would be termed SYNDICAT DES VINS as such. The second view is that neither SYNDICAT DES VINS nor COTES DE PROVENCE are dominant features, since the mark as registered requires the presence of both elements together to make sense, and they are both of equal prominence. In other words, there is no unequivocally dominant element, as such, that could be extracted from the wording of the mark as a whole. In any event, in light of its finding on the third element assessment below, the Panel does not require to reach a concluded position on this issue.

B. Rights or Legitimate Interests

The requirements of paragraph 4(a) of the Policy are conjunctive. A consequence of this is that failure on the part of a complainant to demonstrate one element of the Policy will result in failure of the complaint in its entirety. Accordingly, in light of the Panel's findings in connection with the third element assessment under the Policy, no good purpose would be served by addressing the issue of the Respondent's rights or legitimate interests in the disputed domain name.

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.

As a headline issue, the Panel notes that the Complainant's French Registered Trademark number 3753570, registered in 2010, post-dates the registration date of the disputed domain name. In the absence of evidence to the contrary, the Panel works on the basis that the Respondent is the original registrant of the disputed domain name dating from 2007. While the Complainant's French Registered Trademark number 1432164 was in force at the material time, it is not relevant to the issues in this case, given that it is non-textual and exclusively graphical in nature (see the first element assessment above). Where a respondent registers a domain name before the complainant's trademark rights accrue, panels will not normally find bad faith on the part of the respondent. [WIPO Overview 3.0](#), section 3.8.1. Subject to the question of any unregistered trademark rights that the Complainant might have possessed (which it did not specifically cite in the Complaint), this may have been sufficient to dispose of the present administrative proceeding. However, there would have been further difficulties with the Complainant's case even if the said trademark had (1) pre-dated the registration date of the disputed domain name; and (2) been found to be confusingly similar to the disputed domain name in accordance with the first element assessment above. For completeness, given that the case raises relatively unusual issues, the Panel will discuss these below.

The Panel notes that the Respondent uses the disputed domain name for a website featuring pay-per-click advertising links, examples of which have previously been noted as "Cave à Vin Réfrigérée" (refrigerated wine cellar), "Caviste en Ligne" (online wine merchant), and "Vin à Livrer" (wine for delivery, and English links noted by the Panel of "Cote de Provence Rose", "Specs Wine", and "Personal Wine". The problem for the Complainant's case, however, is that the fame and global reach or extent of the Complainant's French Registered Trademark number 3753570 and/or any unregistered trademark rights that it might have possessed (as distinct from the fame of the wine region) is not something that the Complainant has established on the present record. It is notable that while the PPC links before the Panel reference wine, and, in one case, the wine region which the Complainant regulates and promotes, none of them reference the Complainant itself. Indeed, there is no information before the Panel which indicates that the Respondent would likely have been aware of the Complainant, and/or its business activities, or roles and responsibilities, when it registered the disputed domain name. The Respondent's selection of the term "Cotes de Provence" comprising the disputed domain name permits a reasonable inference that the Respondent was aware of the name of the region generally speaking, but not necessarily that it was aware of the Complainant or its trademark.

While the Complainant asserts that it “has been recognized” as the defense and management organization of the AOC concerned, the evidence which it brings forth in support of that assertion emanates from France, and it provides no information as to how or why the Respondent, a person based in the United States of America, would necessarily have awareness of this, or for that matter, any awareness of the Complainant's French registered trademark or any unregistered trademark that it might have claimed to possess. It is therefore possible, and on the evidence in this case, the Panel finds it to be more probable than not, that the Respondent's registration and use of the disputed domain name was intended to reference “a kind of wine which emanated from a particular region” and/or “wine with certain characteristics emanating from a certain region, as opposed to the fame of the Complainant's marks” (see: *Regulatory Board of the Rioja Qualified Designation of Origin (D.O.CA) v. Domain Hostmaster, Customer ID: 43528876679114, Whois Privacy Services Pty Ltd / Privacy.co.com, Inc Privacy ID# 1027108 / Kevin Daste, supra*). Registration and use of the disputed domain name for such a purpose could not be regarded as being in bad faith within the framework of the Policy in the absence of any likely knowledge of and any actual or reasonably inferred intent on the part of the Respondent to unfairly target the Complainant's trademark as such.

It is possible that the Complainant may have remedies in other fora in terms of its PDO rights, as well as in respect of its rights in its registered trademark, but this is beyond the scope of the present administrative proceeding.

The evidence in the case file as presented does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's trademark.

The Panel finds the third element of the Policy has not been established, and the Complaint therefore fails.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: February 17, 2025