

## **ADMINISTRATIVE PANEL DECISION**

Holding Tourisme v. Mathieur PARON

Case No. D2025-0932

### **1. The Parties**

The Complainant is Holding Tourisme, France, represented by SELARL AVOXA RENNES, France.

The Respondent is Mathieur PARON, France.

### **2. The Domain Name and Registrar**

The disputed domain name <magora-gestion.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 6, 2025. On March 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 7, 2025, 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 March 10, 2025, 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 March 11, 2025.

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 March 12, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 1, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 7, 2025.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on April 16, 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 holding company for the Magora group of companies, an international real estate service provider with its headquarters in France.

The Magora group adopted the name “Magora” in 2024 instead of its previous name which was “Odalys”.

The Complainant announced the change of name from Odalys to Magora in 2024 and this was subject to media coverage from a number of publications, months before the registration of the disputed domain name.

The Complainant registered the domain name <magora.fr> on January 10, 2024 and filed a number of MAGORA trade mark applications including the following:

- European Union Trade Mark application for MAGORA, application number 018933677, filed on October 4, 2023; and
- European Union Trade Mark application for MAGORA, application number 019038002, filed on June 6, 2024.

The disputed domain name was registered on December 4, 2024. The disputed domain name points to a pay-per-click (“PPC”) website and it was used to create email addresses in order to facilitate fraudulent activities in the form of phishing and fraudulent impersonation of the Complainant.

The only information relating to the Respondent is as disclosed by the Registrar.

#### **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 confusing similar to its unregistered trade mark MAGORA and that the mere addition of the generic term “gestion” does not reduce the confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name and highlights the fact that the disputed domain name has been used to facilitate fraudulent activities.

Turning to bad faith, the Complainant argues that the timing of registration of the disputed domain name shows that it was registered in bad faith given that it was registered shortly after the public announcement by the Complainant of the change of name from “Odalys” to “Magora”. The Complainant points to the use of the disputed domain name to carry out fraudulent activities, to conclude that the disputed domain name is used in bad faith.

##### **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 trade mark and the disputed domain names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant relies upon rights in respect of applications for registered trade marks on the one hand and unregistered trade mark rights for MAGORA on the other hand.

Turning first to the Complainant's applications for registered trade marks, as decided by previous panels under the Policy, a pending trade mark application would not by itself establish trade mark rights within the meaning of UDRP paragraph 4(a)(i). The Panel finds that unless such applications have proceeded to grant they do not constitute standing for the first element of the Policy. [WIPO Overview 3.0](#), section 1.1.4.

The Panel therefore turns to the question of whether the Complainant has established that it has unregistered trade mark rights in MAGORA for the purpose of the Policy. It is established that under the Policy, the expression "trade mark or service mark" as used in paragraph 4(a)(i) of the Policy encompasses both registered and unregistered (sometimes referred to as common law) marks [WIPO Overview 3.0](#), sections 1.1.1 and 1.3.

The Panel thus needs to determine whether there is a sufficient evidence to find, on balance and for the purpose of the Policy, that the Complainant has unregistered trade or service mark rights in MAGORA, which is reproduced in the disputed domain name.

To establish registered or unregistered trade mark or service mark rights – and thus standing – for the purpose of the Policy, the Complainant must provide evidence that MAGORA has become a distinctive identifier which consumers associate with the Complainant's goods and/or services.

In this respect, the Complainant has provided evidence that it has adopted a new visual identity for its new business name "Magora", with a dedicated website and domain name <magora.fr> and a dedicated "Magora" brochure relating to its services. The change of business name from "Odalys" to "Magora" has been subject to press coverage in a number of publications as the new name to identify the source of the services provided by the Complainant's company Magora. In addition, the Panel considers that the fact that the Respondent is shown to have been targeting the Complainant's trade mark (i.e. by impersonating the Complainant and sending emails (under the disputed domain name) including "Magora" logos of the Complainant, supports the Complainant's assertion that its MAGORA trade mark has achieved significance as a source identifier (see for instance *Gateway Fiber LLC v. Wix.com Ltd.*, *Wix.com Ltd. / Ali Oudah, Ayadi Group*, WIPO Case No. [D2021-1736](#)).

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

Although the addition of other terms, here "gestion", may bear on assessment of the second and third elements, the Panel finds that such additions do not prevent a finding of confusing similarity between the disputed domain name and the trade 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.

The Complainant has stated that it has not licensed or otherwise authorized the Respondent to make any use of its unregistered trade mark MAGORA. There is no indication that the Respondent is commonly known by the disputed domain name.

Further, the Complainant has provided clear evidence that the disputed domain name was used to send fraudulent emails (phishing emails) impersonating the Complainant. Panels have held that the use of a domain name for illegal activity here, phishing and impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Thus, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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.

The Complainant relies upon rights in respect of applications for registered trade marks on the one hand and unregistered trade mark rights for MAGORA on the other hand.

As found under section 6.A above, the Complainant has established unregistered trade mark rights in MAGORA for the purpose of the Policy. In addition, it would appear that the disputed domain name was registered with the intent to unfairly capitalize on the Complainant’s nascent (typically as yet unregistered) trade mark rights. Given the reasonable amount of press coverage, predating the registration of the disputed domain name, on the adoption of the new business name Magora in the context of the services offered under that name and given the fanciful nature of the term “Magora” which does not seem to be a dictionary term in French or in English, the Panel finds that the disputed domain name was registered in bad faith.

Turning to the use of the disputed domain name, given the circumstances described in the Complaint and the evidence provided by the Complainant, the Panel considers that the disputed domain name is used in bad faith. The use of the disputed domain name to carry out fraudulent activities in the form of phishing and

impersonation of the Complainant is very persuasive and clear evidence of the Respondent's bad faith use of the disputed domain name and typically the type of use the Policy is designed to tackle. [WIPO Overview 3.0](#), section 3.4.

The fact that the Respondent chose not to object to the Complainant's assertions can only reinforce the Panel's view that the disputed domain name is used in bad faith.

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 <magora-gestion.com> be transferred to the Complainant.

*/Vincent Denoyelle/*

**Vincent Denoyelle**

Sole Panelist

Date: April 30, 2025