

## **ADMINISTRATIVE PANEL DECISION**

Fidal et Associés v. Andree Simy

Case No. D2025-1013

### **1. The Parties**

The Complainant is Fidal et Associés, France, self-represented.

The Respondent is Andree Simy, France.

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

The disputed domain name <fidal-avocat.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 12, 2025. On March 12, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 12, 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 (Domain Administrator, PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 18, 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 amendment to the Complaint on March 18, 2025.

The Center verified that the Complaint together with the amendment to the 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 19, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 8, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 17, 2025.

The Center appointed Fabrice Bircker as the sole panelist in this matter on April 28, 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, Fidal et Associés, is a French Law firm with more than 1350 lawyers, and a turnover of EUR 320 million in 2019.

The Complainant operates under the FIDAL brand and its business dates to 1922.

The Complainant's activities are protected through many trademarks registrations that it owns, such as the following ones:

FIDAL, French trademark registration No. 1434480 filed on November 9, 1987 as a renewal of the trademark registration No. 1035225 of December 7, 1977, regularly renewed since then, and designating services of classes 35 and 36;

**FIDAL**

AVOCATS

, French trademark registration No. 4983372, filed on August 8, 2023, registered on December 15, 2023, and protecting products and services of classes 9, 16, 35, 36, 38, 41, 42 and 45;

**FIDAL**

AVOCATS

International trademark registration No. 1786497, registered on January 12, 2024, filed under priority of the above-mentioned French trademark, notably European Union, United Kingdom, Morocco and Tunisia, and protecting products and services of classes 9, 16, 35, 36, 38, 41, 42 and 45.

The Complainant has also an online presence, notably through the <fidal.com> domain name, which directs to its official website, and which is also used for its email addresses.

The disputed domain name, <fidal-avocat.com>, was registered on November 25, 2024.

It does not resolve to an active website.

However, according to the record of the case, it was used to create an email address used to impersonate the Complainant in financial fraud schemes.

Very little is known about the Respondent, except that, based on the information disclosed by the Registrar, he is apparently located 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 reproduces identically its registered FIDAL trademark which therefore is recognizable within it.

Besides, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name, in substance because:

- the Respondent is not known under the name “fidal” or “fidal avocat”,
- the Respondent is not one of the Complainant’s distributors or business partners and does not carry out any activity for or has any business with it,
- the Complainant has never given any authorization or permission to the Respondent or to any third-party whatsoever to register or to use the disputed domain name,
- as the disputed domain name directs to an inactive website, the Respondent is not using it in connection with a bona fide offering of goods or services and is not making a legitimate noncommercial or fair use of said disputed domain name.

Finally, the Complainant contends that the disputed domain name has been registered and is being used in bad faith, notably because:

- the Complainant’s trademarks were registered before the disputed domain name,
- a Google search for “fidal” shows results for the Complainant,
- the presence of the “avocat” element within the disputed domain name refers to the Complainant’s activity and evidences that the Respondent was aware of the Complainant’s trademarks when he registered said disputed domain name,
- the Complainant has a reputation in the field of legal services in France, in the European Union and in several countries worldwide,
- the sign “fidal” has no meaning and is highly distinctive for designating legal services,
- the disputed domain name has been used in fraudulent phishing schemes as the Respondent has used it to send emails impersonating the Complainant to deceitfully conduct the victim of the scam to proceed to undue payments.

## **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 (in particular the FIDAL AVOCATS trademark registrations detailed in section 4, supra). [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name, with the exception of the letter “s”. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Indeed, it is constant that “a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”. [WIPO Overview 3.0](#), section 1.9.

Regarding the generic Top-Level Domain (“gTLD”) “.com” in the disputed domain name, it is well established that gTLD do not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

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, the Complainant has not given its consent to the Respondent to use its trademarks in a domain name registration or in any other manner.

Besides, there is nothing in the record of the case to indicate that the Respondent may be commonly known by the disputed domain name.

Furthermore, according to unrebutted explanations and supporting material provided by the Complainant, the disputed domain name has been used to send emails by which the Respondent, by deceitfully pretending to be a lawyer working for the Complainant, has requested (and unfortunately even obtained) from a third party that it proceeds with undue payments.

Obviously, such use of the disputed domain name is made with intent for commercial gain by deceiving a third party by fraudulently impersonating the Complainant.

In this respect, panels have held that the use of a domain name for illegal activity (such as phishing, 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.

At last, the Respondent has not replied to the Complainant’s contentions.

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

## **C. Registered and Used in Bad Faith**

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.

In the present case, the Panel notes that:

- the disputed domain name is confusingly similar to the Complainant’s trademarks, which predate the registration of said disputed domain name, by more than 40 years for the oldest trademark,
- “fidal” is a coined word and therefore the corresponding trademark is intrinsically distinctive,

- it results from supporting evidence communicated by the Complainant that its trademarks designate a well-known French law firm,
- the French word “avocat” within the disputed domain name means “lawyer / barrister” and therefore refers to the Complainant’s field of activities,
- the Respondent is located in France, where the Complainant originates and is particularly active,
- the disputed domain name has been used to send emails deceitfully impersonating the Complainant intended to conduct their recipients to proceed to undue payments,
- the Respondent, while invited to defend its case, has been remaining silent in this procedure.

It necessarily and obviously results from the above findings that the Respondent registered the disputed domain name being fully aware of the Complainant’s prior rights, and that it has intentionally used the disputed domain name to deceive third parties by fraudulently impersonating the Complainant in view of an undue financial gain.

In this respect, Panels have held that the use of a domain name for illegitimate or illegal activity (such as phishing, 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 <fidal-avocat.com> be transferred to the Complainant.

*/Fabrice Bircker/*

**Fabrice Bircker**

Sole Panelist

Date: May 8, 2025