

ADMINISTRATIVE PANEL DECISION

KILOUTOU v. Arnau Estebanell Hernanz

Case No. D2025-2164

1. The Parties

The Complainant is KILOUTOU, France, represented by Cabinet BEAU DE LOMENIE, France.

The Respondent is Arnau Estebanell Hernanz, Ireland.

2. The Domain Name and Registrar

The disputed domain name <kilotou.com> is registered with 10dencehispahard, S.L. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 3, 2025. On June 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 9, 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, REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 20, 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 June 24, 2025.

On June 20, 2025, the Center informed the parties in Catalan and English, that the language of the registration agreement for the disputed domain name is Catalan. On June 24, 2025, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 June 25, 2025. In accordance with the Rules, paragraph 5, the due date for Response was July 15, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 17, 2025.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on July 29, 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 one of the European leaders in equipment's rental services for the industry, for the construction and public works sector as well as for the public at large. Employing over 6,500 people through a network of 599 branches, KILOUTOU annual turnover is more than EUR 1,200 million.

The Complainant is widely established in France and has an international presence. It is the third largest generalist equipment rental company in Europe. The Complainant is present in seven countries: France, Poland, Spain, Germany, Italie, Denmark, and Portugal.

The Complainant is the owner of several trademark registrations, including the following.

- French trademark KILOUTOU LOUE PRESQUE TOUT MIETET FAST ALLES SE AQUILA CASI TODO AFFITASI QUASI TUTTO, registered on December 9, 1982, with registration number 1221258, in classes 6 - 12, 16, 20, 28, 37, 39, 40 and 41.
- International trademark KILOUTOU MULTI-LOCATION, registered on November 16, 1994, with registration number 628442, in classes 1, 9, 11, 12, 16-25, 27, 35-42.
- European Union trademark KILOUTOU, registered on November 18, 2005, with registration number 003332814, in classes 2, 3, 7, 8, 9, 11, 12, 16, 21, 35, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

The Complainant is the owner of and uses two principal websites "www.kiloutou.com" and "www.kiloutou.fr", which allow Internet users to rent all kind of equipment online.

The Complainant also owns and uses websites specially dedicated to energy, drone, module, event, and industrial sectors, such as:

- "www.kiloutou-energie.fr"
- "www.kiloutou-drones.com"
- "www.kiloutou-module.com"
- "www.kiloutou-module.fr"
- "www.kiloutou-event.com"
- "www.kiloutou-event.fr"
- "www.kiloutou-industrie.fr"
- "www.kiloutou-industrie.co"

According to the evidence submitted with the Complaint, the disputed domain name resolves to an inactive website.

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.

The Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant has granted neither license nor authorization to the Respondent to make any use of the Complainant's trademarks, or apply for registration of the disputed domain name.

The disputed domain name points to a parking page with commercial links as shown in Annex 6 to the Complaint and past panels have found it is not a bona fide offering of goods or services or legitimate noncommercial or fair use.

The disputed domain name has been set up with MX records, as shown in Annex 7 to the Complaint which suggests that it may be actively used for email purposes. This is also indicative of bad faith registration and use because any email emanating from the disputed domain name could not be used for any good faith purpose.

Notably, the Complainant contends that the Respondent registered and uses the dispute domain name which is confusingly similar to its well-known trademark KILOTOU for the purpose of confusing Internet consumers and lead them to think that the websites to which it resolves are somehow related to the Complainant and thereby profit from the reputation of the Complainant's mark.

B. Respondent

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

6. Discussion and Findings

A. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Catalan. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that Respondent can understand the language of the Complaint, and that it would be unfair to let the Complainant burden the costs of translation of all the submitted documents, not to mention lengthening the procedural deadlines.

On June 20, 2025, the Center informed that the language of the Registration Agreement for the disputed domain name is Catalan. In the same message, the Center informed the name and residence of the Respondent. Although, the Center has given information about the language of the registration agreement, the ultimate determination of the language of proceedings is quite properly left by the Center to the Panel.

"The spirit of Paragraph 11 is to ensure fairness in the selection of language by giving full consideration to the parties' level of comfort with each language, the expenses to be incurred and the possibility of delay in the proceeding in the event translations are required and other relevant factors." See WIPO Case No. D2003-0989, *Groupe Industriel Marcel Dassault, Dassault Aviation v. Mr. Minwoo Park*.

Numerous decisions of UDRP panels have found that where the respondent can clearly understand the language of the Complaint, and the complainant would be disadvantaged by being forced to translate, the language of proceedings can remain the language of the Complaint, even though it is different to the language of the Registration Agreement. See WIPO Case No. D2008-1191, *Zappos.com, Inc. v. Zufu aka Huahaotrade*.

As a matter of fact, in this case:

- a) The Respondent's is located in Dublin, Ireland, where English is an official language. Obviously, the Respondent is accustomed to the English language because of its residence.
- b) The disputed domain name does not resolve to a website in Catalan language.
- c) The Complainant is unable to communicate in Catalan. Requiring the Complainant to submit documents in Catalan would lead to delay and cause the Complainant to incur translation expenses;

In view of the foregoing arguments, the Panel resolves that the language of the proceedings is English.

B. 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 Panel finds the mark is recognizable 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 and 1.9.

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

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

D. 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.

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 (including a blank or "coming soon" page) 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, the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, 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.

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 <kilotou.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: August 11, 2025