

ADMINISTRATIVE PANEL DECISION

Groupe Adeo v. Jibril YAHYAOU
Case No. DAI2024-0016

1. The Parties

The Complainant is Groupe Adeo, France, represented by Nameshield, France.

The Respondent is Jibril YAHYAOU, France.

2. The Domain Name and Registrar

The disputed domain name <leroymerlin.ai> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 13, 2024. On February 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 16, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 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 February 19, 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 February 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 19, 2024. The Respondent sent email communications to the Center on February 19, February 23, and March 4, 2024.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on April 2, 2024. 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 French company specializing in the sale of articles covering all sectors of the home, the development of the living environment and DIY, both for individuals and professionals.

The Complainant is the owner of several trademarks incorporating the terms LEROY MERLIN to promote part of its activities and services including (the “LEROY MERLIN Trademarks”):

- the international word trademark LEROY-MERLIN No. 591251, registered on July 15, 1992, for services in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 16, 17, 19, 20, 21, 22, 25, 27, 28, 31, and 37 and duly renewed;
- the international figurative trademark LEROY MERLIN No. 701781 registered on August 14, 1998, for services in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 31, 35, 36, 37, 38, 39, 40, 41, and 42 and duly renewed;
- the European Union word trademark LEROY MERLIN No. 10843597 registered on December 7, 2012, for services in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 31, 35, 36, 37, 40, 41, 42, and 44 and duly renewed;
- the European Union figurative trademark LEROY MERLIN No. 11008281 registered on October 2, 2013, for services in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 31, 35, 36, 37, 40, 41, 42, and 44 and duly renewed.

The Complainant is also the owner of the domain name <leroymerlin.fr> registered on September 12, 1996.

The disputed domain name was registered on January 11, 2023, by an individual located in France. It resolves to a parking page, featuring a statement “[t]his Domain Parked with OnlyDomains,” and Email Exchange (“MX”) servers are configured.

5. Parties’ Contentions

A. Complainant

The Complainant contends that he 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 trademarks as it is identically contained without any addition or deletion.

The Complainant also stands that the Respondent has no right or legitimate interests in respect of the disputed domain name. Indeed, the Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name and that he is not affiliated with nor authorized by the Complainant in any way. The Complainant notes that he does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the LEROY MERLIN Trademarks or apply for registration of the disputed domain name by the Complainant. The Complainant also points out that the Respondent has no demonstrable plan to use the disputed domain name.

Finally, the Complainant states that the disputed domain name was registered and is being used in bad faith. The Complainant indicates that the disputed domain name, which is identical to the LEROY MERLIN Trademarks has been registered several years after the registration of these trademarks. The Complainant emphasizes that given the distinctiveness of the LEROY MERLIN Trademarks and reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant’s trademarks. The Complainant also notes that the disputed domain name resolves to a parking page and that it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate. Finally, the Complainant claims that MX servers are configured which suggests that, despite being on parking page, the disputed domain name may be actively used for emailing purposes.

B. Respondent

The Respondent did not reply to the Complainant's contentions. The Respondent sent to the Center several email communications relating to his exchanges with OnlyDomains, which sells .ai domains through the Registrar services, in order to cancel his disputed domain name subscription.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant shall prove the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the 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.

Indeed, it appears that the Respondent is not commonly known by the disputed domain name and that the Complainant is not affiliated with nor authorized by the Complainant to register 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.

In the present case, the Panel notes that the Respondent has registered the disputed domain name, which is identical to the LEROY MERLIN Trademarks, several years after the registration of these trademarks. Regarding the distinctiveness and reputation of these trademarks, the Panel considers that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademarks and that it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would be legitimate.

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 would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, 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 <leroymerlin.ai> be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: April 16, 2024