

PANEL DECISION

Jurgen Raedts v. Name Redacted, The Artist BV
Case No. DEU2023-0040

1. The Parties

The Complainant is Jurgen Raedts, Belgium, self-represented.

The Respondent is Name Redacted, The Artist BV, Belgium.¹

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <theartistbv.eu> (the “Disputed Domain Name”) is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the Disputed Domain Name is GoDaddy.com, LLC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 19, 2023. On October 19, 2023, the Center transmitted by email to the Registry a request for registrar verification in connection with the Disputed Domain Name. On October 20, 2023, the Registry 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 (Real name and address unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 20, 2023 providing the registrant and contact information disclosed by the Registry, and requiring the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on October 20, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

¹ The Respondent appears to have used the name of the Complainant’s wife when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registry regarding transfer of the disputed domain name, which includes the full name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registry as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 23, 2023. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was November 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 13, 2023.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on November 14, 2023. 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 ADR Rules, Paragraph B(5).

4. Factual Background

The Complainant, Jurgen Raedts, claims to be the owner of a company named "The Artist BV" registered on June 8, 2023, without providing any proof of this. Following a search in the Belgian Crossroads Bank for Enterprises Public Search, the Panel observes that a company named "The Artist" was registered on June 8, 2023 with the Complainant as a director (among others).

The Disputed Domain Name was registered on June 21, 2023. According to the Complainant, the Disputed Domain Name resolved to a website offering washing machines for sale. The Panel observes that the Disputed Domain Name currently resolves to a website under construction.

5. Parties' Contentions

A. Complainant

The Complainant considers the Disputed Domain Name to be identical to a name in respect of which the Complainant has a right or rights recognized or established by national law of a Member State and/or European Union law.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. According to the Complainant, there is no legitimate, noncommercial, commercial, or fair use of the Disputed Domain Name by the Respondent.

Finally, the Complainant considers that the Disputed Domain Name was registered and being used in bad faith. The Complainant claims that the Disputed Domain Name has been registered to prevent the Complainant from reflecting his company name in a domain name. Moreover, the Complainant suspects the Disputed Domain Name to be registered for the purpose of disrupting the professional activities of a competitor.

B. Respondent

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

6. Discussion and Findings

For the Complainant to succeed in its Complaint, it is required to demonstrate the following under Paragraph B(11)(d)(1) of the ADR Rules:

1. The Disputed Domain Name is identical or confusingly similar to a name in respect of which a right is recognized or established by national law of a Member State and/or European Union law; and either
2. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; or

3. The Disputed Domain Name has been registered or is being used in bad faith.

The Panel will deal with each of these requirements in turn.

A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law

Article 9(2) of the EU Regulation No. 2020/857 laying down public policy rules concerning the implementation and functions of the .eu Top-Level Domain (“TLD”) and the principles governing registration specifically provides that prior rights shall be understood to include, *inter alia*, registered national and European Union trademarks, geographical indications, and, in as far as they are protected under national law in the Member State where they are held: unregistered trademarks, trade names, business identifiers, company names, family names, and distinctive titles of protected literary and artistic works.

The Complainant claims to be the owner of a company named “The Artist BV” registered on June 8, 2023. A search in the Belgian Crossroads Bank for Enterprises reveals that a company named “The Artist” was registered on June 8, 2023 with the Complainant as a director among others.

Company names are protected in Belgium under Article XII.22 of the Belgian Code of Economic Law. The Panel considers that company names registered in Belgium constitute a prior right within the meaning of Article 9(2) of the EU Regulation No. 2020/857. As a result, the Panel finds that the company name “The Artist” is a recognizable right within the meaning of Paragraph B(11)(d)(1)(i) of the ADR Rules.

The Disputed Domain Name incorporates the Complainant’s company name “The Artist” in its entirety, simply adding the term “bv”, which may refer to private limited company (“besloten vennootschap” in Dutch). Domain names which include a name for which a right is recognized or established by national and/or European Union law combined with additional terms are confusingly similar to that name (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.8).²

The Disputed Domain Name incorporates the Complainant’s company name “The Artist” in its entirety. It is well established that the applicable TLD suffix in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Therefore, the Disputed Domain Name is identical or confusingly similar to the Complainant’s company name “The Artist” in respect of which it has rights recognized or established by national law of a Member State and/or the European Union law. Accordingly, the Complainant has made out the first element that it must establish.

B. Rights or Legitimate Interests

Under Paragraph B(11)(d)(1)(ii) of the ADR Rules, the Complainants have the burden of establishing that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

It is an established consensus view of previous ADR panels that it is sufficient for the Complainants to make a *prima facie* showing that the Respondent has no rights or legitimate interests in the Disputed Domain Name in order to place the burden of production on the Respondent (see *Champion Innovations, Ltd. v. Udo Dussling* (45FHH), WIPO Case No. [D2005-1094](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#); *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#); see also [WIPO Overview 3.0](#), section 2.1).

² Given the similarities between the ADR Rules and the Uniform Domain Name Dispute Resolution Policy (the “UDRP”), the Panel will refer to cases decided under both the ADR Rules and the UDRP and notably the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) if relevant to this proceeding.

The Panel notes that the Respondent has not apparently been commonly known by the Disputed Domain Name, and that the Respondent does not seem to have acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is "[NAME REDACTED]", a name corresponding to the name of the Complainant's wife. The Respondent's use and registration of the Disputed Domain Name was not authorized by the Complainant.

The Respondent had the opportunity to demonstrate his rights or legitimate interests in the Disputed Domain Name, but did not do so. It even appears that the Respondent has taken active steps to conceal its identity, as the information contained in the Whois records is not accurate. Indeed, the Respondent's registered the Disputed Domain Name with the Complainant's address. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been rebutted.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the Disputed Domain Name. In light of the above, the Complainant succeeds on the second and final element that they must establish.

C. Registered or Used in Bad Faith

Under Paragraph B(11)(d)(1) of the ADR Rules, (ii) lack of rights or legitimate interests and (iii) registration or use in bad faith are considered alternative requirements.

As the Panel has found that the Respondent lacks rights or legitimate interests in the Disputed Domain Name for the reasons explained under section 6.B. above, no further discussion on bad faith registration or use is necessary. Nevertheless, the Panel will briefly address this third element.

Paragraph B(11)(f) of the ADR Rules provides a non-exclusive list of factors, any one of which may demonstrate bad faith. Among these factors demonstrating bad faith registration or use is the use of a domain name to attract Internet users, for commercial gain to the respondent's website or other online location, by creating a likelihood of confusion with a name on which a right is recognized or established, by national and/or European Union law, or it is a name of a public body, such likelihood arising as to the source, sponsorship, affiliation or endorsement of the website or location or of a product or service on the website or location of the Respondent.

In the Panel's view, the use the Disputed Domain Name consisting of the combination of the Complainant's company name "The Artist" with the term "bv", which is the official abbreviation for the legal form of the Complainant's company "The Artist", clearly demonstrates that the Respondent is using the Disputed Domain Name to attract Internet users for commercial gain to the Respondent's website by creating a likelihood of confusion with the Complainant's company. The Respondent's use the contact details of the Complainant's wife and business when registering the Disputed Domain Name reinforces the Panel's finding of bad faith.

Therefore, the Panel finds that, on the balance of probabilities, the Disputed Domain Name was registered or is being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the Disputed Domain Name <theartistbv.eu> be transferred to the Complainant.³

/Flip Jan Claude Petillion/

Flip Jan Claude Petillion

Sole Panelist

Date: December 4, 2023

³ (i) The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.

(ii) The Complainant is an individual in Belgium, therefore he satisfies the general eligibility criteria for registration set out in Article 3 of Regulation (EU) 2019/517.