

ADMINISTRATIVE PANEL DECISION

VDA Verband der Automobilindustrie e.V. v. VEZA-PRIM S.R.L.
Case No. DMD2024-0002

1. The Parties

The Complainant is VDA Verband der Automobilindustrie e.V., Germany, represented by Kroher Strobel Rechts- und Patentanwälte PartmbB, Germany.

The Respondent is VEZA-PRIM S.R.L., Republic of Moldova.

2. The Domain Name and Registrar

The disputed domain name <adblue.md> is registered with Public Institution “Information Technology and Cyber Security Service” (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 2, 2024. On August 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 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 (Institutia Publica “Serviciul Tehnologia Informatiei si Securitate Cibernetica”) and contact information in the Complaint, and indicating that the language of the registration agreement was Romanian. The Center sent an email communication to the Complainant on August 28, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On August 23, 2024, the Center sent a notification regarding the language of proceeding. The Complainant filed an amendment to the Complaint on August 28, 2024 and requested English to be the language of the proceeding, and also submitted the Complaint in Romanian.

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 in both Romanian and English, and the proceedings commenced on September 9, 2024. In

accordance with the Rules, paragraph 5, the due date for Response was September 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 1, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on October 7, 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 an interest group of the German automotive industry, including both automobile manufacturers and automobile component suppliers. The Complainant actively pursues the interests of the German automotive industry in sectors such as the aftermarket, electric mobility, logistics and customs, and excise.

The Complainant owns worldwide trademark registrations for ADBLUE, such as the following:

- the International trademark registration number 811899 for ADBLUE (word), registered on August 8, 2003, for goods in International class 1, and designating numerous jurisdictions worldwide, including the Republic of Moldova; and
- the European Union trademark registration number 03945938 for ADBLUE (word), registered on February 6, 2006, covering goods and services in International classes 1, 4, 12, 37 and 42.

The Complainant submits that its trademark ADBLUE is used for a liquid containing urea that reduces the nitrogen oxide (NOx) emissions of diesel engines. The Complainant grants licences for ADBLUE trademark; the list of official licensees is provided as Annex 6 to Complaint.

The disputed domain name was registered on November 15, 2018. According to evidence provided as Annex 1 to Complaint, the disputed domain name has been used in relation to a webpage promoting similar goods related to vehicles and displaying the mark ADBLU in the top of the page, in Russian.

When the Panel visited the website under the disputed domain name, the Panel was redirected to an error page.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for the cancellation of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical to its well-known trademark ADBLUE; that the Respondent has no rights or legitimate interests in the disputed domain name and the Respondent it is not an official licensee of the Complainant; that the Respondent registered and is using the disputed domain name in bad faith for promoting identical goods to those offered by the Complainant under its trademark, namely solutions for the reduction of NOx emissions in vehicles.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Preliminary Issue: Language of Proceeding

The language of the Registration Agreement for the disputed domain name is Romanian. 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, and further, upon the Center's notification regarding the language of the proceeding, it was translated into Romanian.

The Complainant requested that the language of the proceeding be English for the following reasons: (i) English is commonly understood; (ii) the disputed domain name is in English; and (iii) the principle of equity of the parties and expedite proceedings excluding unnecessary burdensome of the Complainant ordering translations without the appropriate request/objections from the Respondent and therefore delaying the proceedings.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

The Complainant and its representative are German companies. Accordingly, neither the Complainant nor its representative are able to understand and to communicate in Romanian.

The Complainant provided the translation of the Complaint in Romanian.

The Panel further notes that the Center notified the Parties in Romanian and English of the language of the proceeding, as well as notified the Respondent in Romanian and English of the Complaint.

Moreover, the Respondent did not file any objections regarding the language of this proceeding.

The Panel is familiar with both, Romanian and English.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be 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 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 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.

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 composition of the disputed domain name carries a high risk of implied affiliation, being identical to the Complainant’s mark, thus suggesting an affiliation with the Complainant. Furthermore, the Complainant grants licenses for its ADBLU trademark and the Respondent is not such a licensee. UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel notes that the disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark particularly because it reproduces exactly the Complainant’s mark, which predates the registration of the disputed domain name with more than 15 years and has acquired substantial international reputation in its industry. Further, the use of the disputed domain name enhances this finding.

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.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt “to attract, for commercial gain, Internet users to [the respondent’s] web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] web site or location or of a product or service on [the respondent’s] web site or location” is evidence of registration and use in bad faith.

The website operated under the disputed domain name displayed the Complainant’s trademark and promoted similar goods to those of the Complainant’s products, indeed in this Panel’s view, the Respondent has intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, or controlled by the Complainant, or somehow affiliated with or related to the Complainant, for the Respondent’s commercial gain.

Further evidence of bad faith are the following facts: the nature of the disputed domain name which is reproducing exactly the Complainant’s mark; the reputation of the Complainant’s mark; and the failure of the Respondent to submit a response. [WIPO Overview 3.0](#), section 3.2.1.

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

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 <adblue.md> be cancelled.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: October 17, 2024