

ADMINISTRATIVE PANEL DECISION

Lesaffre et Compagnie v. Jaouad Lamdarreg
Case No. D2022-1109

1. The Parties

The Complainant is Lesaffre et Compagnie, France, represented by Nameshield, France.

The Respondent is Jaouad Lamdarreg, Morocco.

2. The Domain Name and Registrar

The disputed domain name <lesaffre-maroc.com> is registered with Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 31, 2022. On March 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 11, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 April 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2022.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on May 6, 2022. 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 global key player in yeasts and fermentation. The Complainant designs, manufactures and markets innovative solutions for baking, “food taste and pleasure”, health care and biotechnology.

The Complainant employs 11,000 people based in 51 countries. According to the website linked to the Complainant’s domain name <lesaffre.com>, the Complainant is known for its research and movement around fermentation to meet the challenges of nutrition, health and the use of resources.

The Complainant registered many trademarks around the world and acquired trademark rights in the LESAFFRE designation, *i.a.*:

- The French trademark LESAFFRE No. 3202372 registered since January 2, 2003;
- The International trademark LESAFFRE GROUP No. 826663 registered since February 4, 2004.

The Complainant is also the owner of many domain names including the LESAFFRE trademark such as the domain name <lesaffre.com> registered since 1996.

The disputed domain name was registered on January 24, 2022. The disputed domain name resolved to a suspended page at the time the Complaint was filed.

On February 17, 2022, the Complainant sent a cease-and-desist letter to the Respondent. It remained unanswered.

5. Parties’ Contentions

A. Complainant

The Complainant asserts to enjoy a strong reputation in its LESAFFRE trademark.

The Complainant considers the disputed domain name to be confusingly similar to a trademark in which it claims to have rights.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that the Respondent is not identified as the disputed domain name, but as “Jaouad Lamdarreg”. The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant does not carry out any activity for, nor has any business with the Respondent. According to the Complainant, neither licence nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark LESAFFRE, or apply for registration of the disputed domain name by the Complainant.

Finally, the Complainant claims that the disputed domain name was registered and is being used in bad faith. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name (the disputed domain name resolves to a website, which contains merely the statement: “Account suspended”), and 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, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law.

The Complainant seeks a decision that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

The burden for the Complainant under paragraph 4(a) of the Policy is to prove:

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

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the complainant has rights.

The Complainant has established rights over the LESAFFRE trademark, duly registered in several jurisdictions across the world. Ownership of a nationally or internationally registered trademark constitutes *prima facie* evidence that the Complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1.

With the Complainant's rights in the LESAFFRE mark established, the remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the generic Top Level Domain ("gTLD") in which the domain name is registered) is identical or confusingly similar to the Complainant's mark. It is well accepted that the first element functions primarily as a standing requirement and that the 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. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

As regards the term "maroc" (meaning "Morocco" in English), the Panel is of the opinion that it does not prevent the finding that the disputed domain name is confusingly similar to the trademark LESAFFRE. As discussed in sections 1.8 and 1.9 of the [WIPO Overview 3.0](#), in cases where the relevant trademark is recognizable within the disputed domain name, the addition of geographical terms would not prevent a finding of confusing similarity under the first element.

The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain name is confusingly similar to its LESAFFRE mark.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

It is well established that, as it is put in the [WIPO Overview 3.0](#), section 2.1, while the overall burden of proof in the proceedings is on the complainant, proving a respondent lacks rights or legitimate interests in a

domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. Therefore, the Panel agrees with prior UDRP panels that the complainant is required to make out a *prima facie* case before the burden of production shifts to the respondent to show that it has rights or legitimate interests in the disputed domain name in order to meet the requirements of paragraph 4(a)(ii) of the Policy. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Complainant has made a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name, notably by:

- (i) demonstrating rights in the LESAFFRE trademark and providing evidence on its goodwill which supports the fact that the Respondent has no rights or legitimate interests in said mark;
- (ii) asserts that the Respondent is not identified as the disputed domain name, but as “Jaouad Lamdarreg”;
- (iii) confirming that the Respondent is neither affiliated with, nor has it been authorized to use the Complainant’s LESAFFRE trademark or any domain name incorporating the LESAFFRE trademark;
- (iv) underlining that the Respondent does not carry out any activity for, nor has any business with the Complainant.

The Panel notes that the disputed domain name resolves to a website, which contains merely the statement: “Account suspended”. Moreover, according to the submitted evidence, there is nothing to suggest any *bona fide* use that might confer on the Respondent rights or legitimate interests in the disputed domain name.

Consequently, the burden shifts to the Respondent to rebut the showing by providing concrete evidence that it has rights or legitimate interests in the disputed domain name. The Respondent, however, has failed to file a response to prove its rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

Therefore, the Panel concludes that the Respondent does not have rights or a legitimate interests in the disputed domain name within the meaning of Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

The Panel notes that the Respondent has registered the disputed domain name, which is confusingly similar to the Complainant’s prior trademarks LESAFFRE, many years after the Complainant had established a strong reputation and goodwill in its mark. Moreover, the word “lesaffre” has no meaning in any language, and a Google search on the expression “lesaffre” displays several results, all of them being related to the Complainant and its activity.

Furthermore, the disputed domain name resolves to a website, which contains merely the statement: “Account suspended”. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and 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, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law. As prior UDRP panels have held, the non-use of a domain name would not prevent a finding of bad faith, see section 3.3 of the [WIPO Overview 3.0](#). See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), and *CBS Broadcasting, Inc. v. Dennis Toeppen*, WIPO Case No. [D2000-0400](#). In the absence of a response from the Respondent this Panel finds that, on the balance of probabilities, the Respondent has registered and used the disputed domain name in bad faith.

In light of the above facts and reasons, the Panel therefore determines that the disputed domain name was registered and used in bad faith, and that the Complainant has satisfied the condition set out in paragraph 4(a)(iii) 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 <lesaffre-maroc.com> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: May 20, 2022