

ADMINISTRATIVE PANEL DECISION

Tikehau Capital v. Louis Gerbert Gaillard

Case No. DEU2022-0025

1. The Parties

Complainant is Tikehau Capital, France, represented by Cabinet Weinstein, France.

Respondent is Louis Gerbert Gaillard, France.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <tikehaucapital.eu> 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

Complainant filed a complaint with the WIPO Arbitration and Mediation Center (the “Center”) on July 22, 2022. On July 22, 2022, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On July 27, 2022, the Registry transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

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

By the ADR Rules, Paragraph B(2), the Center formally notified Respondent of the Complaint, and the proceedings commenced on July 29, 2022. By the ADR Rules, Paragraph B(3), the due date for Response was September 13, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 14, 2022.

The Center appointed Nathalie Dreyfus as the sole panelist in this matter on September 21, 2022. The Panel finds that it has been 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

Complainant is Tikehau Capital, a company active in the business of assets and investments management since 2004.

Complainant is the owner of a larger panel of prior rights:

- International Trademark TIKEHAU CAPITAL No. 1325449 dated October 11, 2016, designating, among others, the European Union and covering services in class 36;
- International trademark TKO TIKEHAU CAPITAL No. 1398859 dated January 10, 2018, designating, among others, the European Union, and covering services in class 36.

Complainant's corporate name is TIKEHAU CAPITAL registered on June 29, 2004.

The domain name <tikehaucapital.com> registered on April 7, 2004.

On March 4, 2022, Respondent registered the disputed domain name <tikehaucapital.eu> and email servers are configured.

5. Parties' Contentions

A. Complainant

Complainant argues that the disputed domain name is identical or at least confusingly similar to its registered prior rights on the TIKEHAU and TKO TIKEHAU CAPITAL trademarks.

Complainant asserts that the disputed domain name reproduces, in the same order, the essential elements "Tikehau" and "Capital" composing part or the entirety of the trademarks owned by Complainant and the entirety of Complainant's corporate name and domain name.

Complainant further states that Respondent was not authorized to use Complainant's prior rights nor to register the disputed domain name.

Complainant also argues that Respondent registered the disputed domain name in bad faith by creating confusion with Complainant in regards to the disputed domain name and due to the choice of the email address indicated by Respondent when registering said domain name. This email address does not fit Complainant's employees address format and is not known from Complainant.

The disputed domain name directs towards an inactive page but email servers are configured. Complainant states that Respondent is the author of passive holding, which shows bad faith. In this regard, Complainant has been made aware of the integration, by the French Financial Regulatory Authority ("AMF"), of the mail address "[firstname.name]@tikehuacapital.eu" on the blacklist of non-authorized websites or companies, for risk of impersonation.

Consequently, Complainant, in an Article published on its website, has highlighted that any other address ending with another extension that their format, such as "[...]@tikehuacapital.eu" is false and may expose to an attempted fraud, which shows that Complainant already had troubles with fraudulent addresses constituted with this domain name.

Finally, Complainant asserts that Respondent, a French citizen residing in France, could not have decided to register the disputed domain name <tikehaucapital.eu> randomly, with no knowledge of Complainant's corporate name, its trademarks or its identical domain name <tikehaucapital.com>.

B. Respondent

Respondent did not reply to Complainant's contentions and is therefore in default.

6. Discussion and Findings

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.

According to Paragraph B(1)(b)(10)(i) A of the Policy, Complainant must prove that the disputed domain name is 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 to which Complainant has rights.

Ownership of a nationally or regionally registered trademark serves as *prima facie* evidence that Complainant has trademark rights for standing to file this Complaint (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1¹). In this regard, Complainant has submitted evidence proving its rights in the TIKEHAU mark.

Complainant's has submitted evidence that it has the following trademark rights :

- International Trademark TIKEHAU No. 1325449 dated October 11, 2016 designating, among others, the European Union, and covering services in class 36;
- International trademark TKO TIKEHAU CAPITAL No. 1398859 dated January 10, 2018, designating, among others, the European Union, and covering services in class 36;

Complainant also submitted evidence proving that its corporate name TIKEHAU CAPITAL has been registered on June 29, 2004.

Complainant's trademarks are recognizable within the disputed domain name.

For all of the above-mentioned reasons, the disputed domain name is identical to the name in which Complainant has right and therefore the condition of Paragraph B(1)(b)(10)(i)A of the is fulfilled.

B. Rights or Legitimate Interests

Under Policy Paragraph B(1)(b)(10)(i)B of the Policy, Complainant must first make out a *prima facie* case showing that Respondent lacks rights and legitimate interests concerning the disputed domain name. The burden of production then to Respondent to come forward with evidence of its rights or legitimate interests. If Respondent fails to do so, Complainant is deemed to have satisfied Paragraph B(1)(b)(10)(i)B of the Policy.

Complainant argues that, to the best of its knowledge, Respondent is not known by the disputed domain name and does not have acquired any trademarks. In addition, Respondent was not granted any license from Complainant to use a domain name featuring the TIKEHAU trademark.

Therefore, the Panel finds that Complainant has made a *prima facie* case showing Respondent's lack of rights or legitimate interest in the disputed domain name. As Respondent has failed to respond, the latter fails to rebut the *prima facie* case established by Complainant.

¹ Considering the substantive similarities between the ADR Rules and the Uniform Domain Name Dispute Resolution Policy (the "UDRP"), the Panel also refers to UDRP case law and analysis, where appropriate.

Considering the above circumstances, the Panel finds, on the balance of probabilities, that Respondent has no rights or legitimate interests concerning the disputed domain name and the requirement of Paragraph B(1)(b)(10)(i) B of the Policy.

C. Registered or Used in Bad Faith

According to Paragraph B(1)(b)(10)(i)C of the Policy Complainant must prove that the disputed domain name has been registered or is used in bad faith.

Complainant argues that Respondent created a deliberate confusion in the detriment of Complainant by registering the disputed domain name that is identical to Complainant's trademarks and corporate name.

Complainant also asserts that the disputed domain name resolves to an inactive website.

Moreover, Complainant argues that the AMF placed the email address "[firstname.name]@tikehaucapital.eu" on the black list of non-authorizes websites or companies, for risk of impersonation and fraud. Complainant asserts that it shows that this email address, associated to the disputed domain name, is likely to be used intentionally for illegal purposes.

In the present case, Complainant is active in a sensitive business which is often subject to fraud. The registration of a domain name identical to Complainant's trademarks demonstrate a deliberate intent from Respondent to cause confusion in the Internet users minds.

In light of the above, the Panel finds that Respondent registered and used the disputed domain name in bad faith.

As a result, the Panel finds that Complainant has satisfied Paragraph B(1)(b)(10)(i)C of the Policy.

7. Decision

For the foregoing reasons, by paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <tikehaucapital.eu> be transferred to Complainant.

/Nathalie Dreyfus/

Nathalie Dreyfus

Sole Panelist

Date: October 13, 2022