

## **ADMINISTRATIVE PANEL DECISION**

**Societe Editrice du Monde v. Gregory Baranes**  
**Case No. DAI2023-0039**

### **1. The Parties**

The Complainant is Societe Editrice du Monde, France, represented by Nameshield, France.

The Respondent is Gregory Baranes, France, represented by Cabinet d'avocats Baldassari, France.

### **2. The Domain Name and Registrar**

The disputed domain name <lemonde.ai> is registered with INTERNETX GMBH (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 20, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 23, 2023, 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 (wemade) and contact information in the Complaint.

The Center sent an email communication to the Complainant on October 23, 2023 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 also on October 23, 2023.

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 October 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2023. The Response was filed with the Center on November 10, 2023.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on November 20, 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 Rules, paragraph 7.

#### 4. Factual Background

The Complainant is a French media company. The Complainant publishes *Le Monde* newspaper, one of France's leading newspapers.

The Complainant is the owner of several LE MONDE trade marks including the following;

- International Trade Mark LE MONDE No. 574503 registered on August 8, 1991, in classes 9, 16, 35, 38, 41, and 42.

The Complainant is the owner of several domain names reflecting its trade mark LE MONDE including <lemonde.fr> which it registered on August 2, 2005.

The disputed domain name was registered on March 10, 2023.

The disputed domain name points to a registrar holding page. The case file includes a Whois record from the website "www.domaintools.com" that contains a banner stating "lemonde.ai is for sale! This domain is listed for sale at one of our partner sites for \$114,943." and a hyperlink to the partner site. The partner site is "www.sedo.com" and it also states that the disputed domain name is for sale displaying a starting price of EUR 100,000.

The Respondent is a company operating the website "https://wemadeinchina.com/" and according to the Response, the Respondent's company "*helps companies find, select, and negotiate reliable supplier in China, guaranteeing product quality on-time delivery and cost optimization*".

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that it 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 the LE MONDE trade mark in which the Complainant has rights.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name and is thus not commonly known by the disputed domain name. The Complainant adds that the Respondent is not affiliated with nor authorized by the Complainant in any way and the Complainant does not carry out any activity for, nor has any business with the Respondent. The Complainant further submits that the Respondent did not make any use of the disputed domain name since its registration which would show that the Respondent has no demonstrable plan to use the disputed domain name.

Turning to the issue of bad faith, the Complainant argues that the LE MONDE trade mark is well-known in France and that the Respondent registered the disputed domain name with full knowledge of the Complainant's trade mark. As for use of the disputed domain name in bad faith, the Complainant points to the fact that it points to a holding page of the Registrar and 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, an infringement of the Complainant's rights under trade mark law, or an attempt to attract, for commercial gain, Internet users to his own website, by creating a likelihood of confusion with Complainant's trade mark.

## **B. Respondent**

The Respondent in its Response argues that the Complaint should be rejected.

The Respondent first submits that the lack of similarity between the goods and services designated by the Complainant's LE MONDE trade mark and artificial intelligence ("AI") and the differences between the signs (the disputed domain name and the LE MONDE trade mark) show that there is no likelihood of confusion between the disputed domain name and the LE MONDE trade mark.

The Respondent then proceeds to explain that its intention is to launch an innovative machine translation platform using artificial intelligence and that it registered the disputed domain name to evoke the universality of languages and the global nature of the service.

Turning to the issue of bad faith, the Respondent essentially disputes the renown of the LE MONDE trade mark and also submits that the current use of the disputed domain name to direct to a Registrar holding page is not sufficient to substantiate bad faith on the part of the Respondent.

## **6. Discussion and Findings**

### **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 trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the trade mark is reproduced within the disputed domain name.

For the sake of completeness, the Respondent's counsel argues that there is no risk of confusion between the disputed domain name and the LE MONDE trade mark as a result of (i) the inclusion in the disputed domain name of the ".ai" country code TLD ("ccTLD") and (ii) the LE MONDE trade mark which does not, so the Respondent alleges, cover artificial intelligence (AI). The Panel finds that both limbs of the argument are misplaced (at least as far as the first element goes).

It is well established since the inception of the UDRP that the test under the Policy is not the same as the test for confusion under trade mark law and that the first element functions primarily as a standing requirement. It is also well established that the applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc", ".ai") is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1 and *Saudi Arabian Oil Co. v. Default Auction Contact / Sebastian Haigh, Oai*, WIPO Case No. [DAI2020-0005](#).

Accordingly, the Panel finds that, as at the second level the disputed domain name only consists of the LE MONDE trade mark, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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.

While 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 often impossible 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. 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.

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights to or legitimate interests in the disputed domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the respondent’s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

After careful consideration of the record, the Panel concludes that the Respondent has failed to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Respondent is not currently using the disputed domain name in connection with a bona fide offering of goods or services and the Response merely states, without any supporting evidence, that the Respondent’s intention is to launch an innovative machine translation platform using artificial intelligence and that it registered the disputed domain name to evoke the universality of languages and the global nature of the service.

As expressed in UDRP decisions, non-exhaustive examples of prior use, or demonstrable preparations to use a domain name, in connection with a *bona fide* offering of goods or services may include: (i) evidence of business formation-related due diligence/legal advice/correspondence, (ii) evidence of credible investment in website development or promotional materials such as advertising, letterhead, or business cards (iii) proof of a genuine (i.e., not pretextual) business plan utilizing the domain name, and credible signs of pursuit of the business plan, (iv) *bona fide* registration and use of related domain names, and (v) other evidence generally pointing to a lack of indicia of cybersquatting intent. While such indicia are assessed pragmatically in light of the case circumstances, clear contemporaneous evidence of bona fide pre-complaint preparations is required. Also, if not independently verifiable by the panel, claimed examples of use or demonstrable preparations to use a domain name in connection with a bona fide offering of goods or services cannot be merely self-serving but should be inherently credible and supported by relevant pre-complaint evidence. [WIPO Overview 3.0](#), section 2.2.

Given that the record does not contain any evidence whatsoever of any preparation for the future use of the disputed domain name as stated in the Response and in light of the overall circumstances of the case including the fact that the disputed domain name was registered several months ago and is listed for sale for a starting price of EUR 100,000, the Panel concludes that the declarations from the Respondent on an allegedly legitimate future use of the disputed domain name are merely self-serving and pretextual.

In addition, there is no element in the record to consider that the Respondent has been commonly known by the disputed domain name.

The Panel also concludes from the record that the Respondent cannot be considered as making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademark or service mark at issue. The disputed domain name is merely directing to a Registrar landing page and is listed for sale.

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.

Based on the available record, 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.

On the preliminary and important issue of the renown of the LE MONDE trade mark, the Complaint merely states that the LE MONDE trade mark of the Complainant is well-known and refers to the results of a Google search which show that the vast majority of the results relate to the Complainant and all the top natural results do. The Complaint does not contain further argumentation or evidence to substantiate that the LE MONDE trade mark is well-known.

Noting the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. In some circumstances, a panel may also rely on personal knowledge (e.g., to take "judicial notice" of the reputation of a well-known mark, or a corporate affiliation/structure). [WIPO Overview 3.0](#), section 4.8 and *Sun International (South Africa) Limited v. NA Klitzner, Sun City Waterworld*, WIPO Case No. [D2023-1181](#).

The Panel, being a French national, takes judicial notice of the significant and longstanding repute of the Complainant's LE MONDE trade mark in France, where the Respondent is based so that it is inconceivable that the Respondent would not have been fully aware of the Complainant's trade mark.

The Panel also notes that the Respondent chose to register the disputed domain name which is identical to the LE MONDE trade mark of the Complainant.

Thus, on the balance of probabilities, the Panel considers that the disputed domain name was registered in bad faith.

As for use of the disputed domain name in bad faith, it does not point to an active website and is listed for sale for a starting price of EUR 100,000. As for the alleged and vaguely formulated intention expressed in the Response to use the disputed domain name in relation to a project involving artificial intelligence, the Panel notes that the Respondent has not produced any supporting evidence.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the 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 including (i) the significant repute of the Complainant's LE MONDE trade mark, (ii) the failure of the Respondent to provide any evidence of actual or contemplated good-faith use and (iii) the fact that the disputed domain name is listed for sale for a starting price of EUR 100,000, which indicates that the Respondent has, more likely than not, registered the disputed domain name with the aim of later selling it to the Complainant.

Based on the available record, 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, <lemonde.ai> be transferred to the Complainant.

*/Vincent Denoyelle/*

**Vincent Denoyelle**

Sole Panelist

Date: December 4, 2023