

ADMINISTRATIVE PANEL DECISION

Financiere DSBG v. Domain Administrator, See PrivacyGuardian.org /
Virtual Design, Rumman Iqbal Rony
Case No. D2022-0513

1. The Parties

Complainant is Financiere DSBG, France, represented by Ipside, France.

Respondent is Domain Administrator, See PrivacyGuardian.org, United States of America (“United States”) /
Virtual Design, Rumman Iqbal Rony, Bangladesh.

2. The Domain Name and Registrar

The disputed domain name <desmetballestraa.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 14, 2022. On February 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 15, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on February 14, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 18, 2022.

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 Respondent of the Complaint, and the proceedings commenced on February 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 17, 2022.

The Center appointed Lynda J. Zadra-Symes as the sole panelist in this matter on March 23, 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

Complainant owns several companies, including Desmet Ballestra Group, which is in the business of developing, engineering and supplying technologies, processing plants and proprietary equipment in many countries. Complainant's Group resulted from the merger of De Smet (Belgium), founded in 1946, a specialist in oilseed preparation and extraction and edible oil & fats refining and modification plants; Rosedowns (UK) a leader in the field of oil seeds pressing, acquired in 1988; Ballestra (Italy), a leader in processing plants for detergents and surfactants industries, which since the 1990s has operated within the inorganic chemicals and fertilizers industries (Ballestra merged into Desmet in 2007); Stolz (France), specialized in animal feed & agro food plants with expertise in storage and handling equipment (Stolz joined Complainant's Group in 2007); Mazzoni LLB (Italy), a leader in soap and glycerine processing plants and finishing lines (Mazzoni joined Complainant's Group in 2017).

Complainant is present in all major market areas of the world through its integrated business units located in North America (USA, Mexico), South America (Argentina, Brazil, Colombia), Asia (China, Singapore, Malaysia, India) and Europe (Belgium, France, Italy, Turkey, Russian Federation, Spain, United Kingdom).

Beyond this direct presence, Complainant's expertise is also conveyed through a dense network of local agents and commercial partners on all continents in areas including oilseeds, oils and fats, oleochemicals, HVO and biodiesel, rosedowns pressing, animal feed and agro food, detergents, surfactants and chemicals, and soap.

Complainant owns the following trademarks, among others:

French Trademark No. 3866307 registered October 12, 2011, for the mark DESMET BALLESTRA;

International Trademark No. 1098680 filed October 17, 2011, DESMET BALLESTRA, designating 61 countries, including the European Union.

Both trademarks are used by NV Desmet Ballestra Group SA and Desmet Ballestra S.P.A. through registered license agreements.

Complainant also owns several domain names, including the following:

<desmetballetra.com>, registered November 17, 2004;

<desmetballetra.fr>, registered June 23, 2008.

The disputed domain name was registered on July 1, 2021, and resolves to a website purporting to be the Complainant's site and prominently featuring the Complainant's trademark.

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain name is identical or confusingly similar to Complainant's trademark, that Respondent has no rights or legitimate interests in the disputed domain name and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

In order to succeed in its claim, Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests with respect to the disputed domain name; and

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

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

Complainant has demonstrated that it has rights in the trademark DESMET BALLESTRA used in connection with the goods and services referenced above and as described in Complainant's registered trademarks. The disputed domain name incorporates Complainant's mark in its entirety, with the addition of an extra "a" at the end of "Ballestra". The addition of the final letter "a" in the disputed domain name does not prevent the Complainant's trademark from being recognizable within the disputed domain name and the phonetic pronunciation of the disputed domain name remains the same as Complainant's mark. The disputed domain name is an example of "typosquatting" designed to lure Internet consumers who mistype Complainant's mark to Respondent's fake website.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to Complainant's trademark.

B. Rights or Legitimate Interests

Complainant contends that Respondent is not affiliated with or connected to Complainant in any way. At no time has Complainant licensed or otherwise endorsed, sponsored or authorized Respondent to use Complainant's mark or to register the disputed domain name. The record is devoid of any facts that establish any rights or legitimate interests of Respondent in the disputed domain name. There is no evidence that Respondent has been commonly known by the disputed domain name or that it has any rights that might predate Complainant's adoption and use of its mark.

Respondent has not made, and is not making, a legitimate noncommercial or fair use of the disputed domain name. Respondent has not used the disputed domain name in connection with the *bona fide* offering of goods or services.

Instead, the record indicates that Respondent was well aware of Complainant's mark and used the disputed domain name to resolve to a fake website that impersonates Complainant's website, prominently displays Complainant's trademark, lists Complainant's address, but lists a fake telephone number and fake email address. Thus, Respondent knowingly adopted Complainant's marks in the disputed domain name in an effort to create the false impression that Respondent is Complainant or is an authorized representative of Complainant. The record indicates that Respondent is very likely using the disputed domain name as a

means of defrauding unsuspecting customers of Complainant into providing their financial information, or providing payment, to Respondent for Respondent's personal profit and gain.

The Panel finds that Complainant has satisfied the requirement of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The record indicates that the disputed domain name resolves to a fake website that impersonates Complainant's website and is very likely being used in connection with a fraudulent scam designed to lure customers into believing that they are dealing with Complainant in order to defraud Complainant's customers into providing financial information or payment to Respondent, for Respondent's personal gain.

The record indicates that Respondent had actual knowledge of Complainant's trademark rights prior to registering the disputed domain name and that Respondent registered and used the disputed domain name to impersonate Complainant. Moreover, the disputed domain name is very likely being used in connection with a fraudulent scam for Respondent's commercial gain by intentionally creating a likelihood of confusion with Complainant's marks.

Accordingly, the Panel finds that Respondent has registered and used the disputed domain name in bad faith.

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, <desmetballestraa.com> be transferred to Complainant.

/Lynda J. Zadra-Symes/

Lynda J. Zadra-Symes

Sole Panelist

Date: April 4, 2022