

ADMINISTRATIVE PANEL DECISION

Groupe ADEO v. JOEL SERGE ROGER VOYER
Case No. D2022-1368

1. The Parties

The Complainant is Groupe ADEO, France, represented by Coblence Avocats, France.

The Respondent is JOEL SERGE ROGER VOYER, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <adeoservices-france.com> is registered with Gandi SAS (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 15, 2022. On April 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 20, 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 the Complainant on April 26, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed the first amendment to the Complaint on April 29, 2022. The Complainant filed the second amendment to the Complaint on May 5, 2022.

The Center verified that the Complaint together with the first and second 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, and the proceedings commenced on May 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 27, 2022.

The Center appointed James Bridgeman as the sole panelist in this matter on June 2, 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 is a retailer of hardware and is the owner of the ADEO trademark and service mark for which it holds an international portfolio of trademark registrations including:

- French registered trademark ADEO, registration number 3423858, registered pursuant to an application made on April 14, 2006, for goods and services in classes 02, 03, 06, 07, 08, 09, 11, 16, 17, 19, 20, 21, 27, 35, and 37;
- International trademark registration ADEO, registration number 930513, registered on October 13, 2006, for goods and services in classes 02, 03, 06, 07, 08, 09, 11, 16, 17, 19, 20, 21, 27, 35, and 37;
- European Union Trade Mark ADEO, registration number 005384731, registered on January 20, 2009, for goods and services in classes 02, 06, 07, 08, 16, 27, and 35.

The Complainant has an established Internet presence and owns a portfolio of Internet domain names that incorporate the ADEO mark, many of which incorporate both the ADEO mark and the words “service” or “services” such as <adeo-service.fr>.

The disputed domain name <adeoservices-france.com> was registered on August 21, 2021 and has been used to create an email account from which the Respondent has sent email correspondence to a third party purporting to emanate from the Complainant and one of its named former employees.

There is no information available about the Respondent except for that provided in the Complaint, the Registrar’s Whois and the information provided by the Registrar in response to the request for verification of the registration details of the disputed domain name in the course of this proceeding.

5. Parties’ Contentions

A. Complainant

The Complainant claims rights in the ADEO trademark and service mark established by its ownership of the trademark and service mark registrations described above and its extensive use of the mark in its retail business, particularly in France for many years.

The Complainant alleges that the disputed domain name <adeoservices-france.com> is confusingly similar to the ADEO mark in which it has rights, arguing that the disputed domain name is composed of an identical reproduction of the Complainant’s ADEO mark with only the addition of the elements “services”, a hyphen, “France” and the generic Top-Level Domain (“gTLD”) extension “.com”.

Arguing that the element “services” is descriptive and is a reference to the Complainant’s subsidiary corporation ADEO Services, the Complainant contends that this term does not reduce the likelihood of confusion between the disputed domain name and the ADOE mark. See *TPI Holdings, Inc. v Carmen Armengol*, WIPO Case No. [D2009-0361](#) (The inclusion of a term “transactions” did not negate the confusing similarity of the Domain Name to Complainant’s AUTO TRADER mark).

The Complainant adds that the element “France” is a geographical place name that is not only non-distinctive but in the context of this Complaint reinforces the risk of confusion. See *America Online, Inc. v Dolphin@Heart*, WIPO Case No. [D2000-0713](#) (“The addition of a place name generally does not alter the underlying mark to which it is added.” Directing transfer <aolfrance.com>).

The Complainant submits that many panels have held that the addition of the gTLD extension is insufficient to prevent a finding that a domain name in issue is confusingly similar to a complainant's mark.

The Complainant next contends that the Respondent has no rights or legitimate interests in the disputed domain name arguing that to the Complainant's knowledge the Respondent has never registered ADEO as a trademark and has never acquired any common law rights in ADEO, therefore the Respondent can have no rights in the disputed domain name.

The Complainant asserts that it has neither authorised nor licensed the Respondent in any way to use or exploit the ADEO mark, to register the disputed domain name, or to associate itself with the Complainant.

The Complainant further asserts that it has never known the Respondent nor has it had any relationship with the Respondent.

Referring to email correspondence adduced in evidence in an annex to the Complaint, the Complainant submits that the exhibit shows that the Respondent has used the disputed domain name to create an email account which is being used for phishing and contends that the Respondent clearly intends to use the disputed domain name to take advantage of its resemblance to the Complainant's ADEO mark.

The Complainant argues that such use cannot constitute a *bona fide* use of the disputed domain name. Nor can it constitute a legitimate noncommercial or fair use because the Respondent is using the Complainant's mark in the disputed domain name to create confusion in the minds of the public creating the impression that the disputed domain name is the property of the Complainant. See *Groupe Adeo v. Name Redacted*, WIPO Case No. [D2021-0475](#) ("... the use of the disputed domain name in connection with a phishing scheme does not qualify as fair use.")

The Complainant next alleges that the disputed domain name was registered and is being used in bad faith, arguing that the registrant chose and registered the disputed domain name under the knowledge of the Complainant and its pre-existing ADEO mark. Citing a number of panel decisions in which the Complainant successfully brought complaints under the Policy including *Groupe Adeo v Peter Garcia*, *Leroy Merlin*, WIPO Case No. [D2016-1451](#), the Complainant contends that it is a famous company that has frequently been the target of cybersquatting.

The Complainant adds that its ADEO mark is well known across many countries, and the registration of a confusingly similar domain name is in itself evidence of bad faith registration.

Furthermore, the composition of the disputed domain name strongly suggests that the registrant had the Complainant's mark in mind when the disputed domain name was chosen and registered.

Additionally, the Complainant contends that its registered trademarks predate the creation of the disputed domain name.

Finally, the Complainant submits that the disputed domain name is being used in bad faith for the purposes of carrying out a phishing scam as described above. Specifically, the exhibited email correspondence shows that on April 8, 2021, a third party purported to place an order in the sum of EUR 143,892 with one of the Complainant's suppliers from an email sent from the account created by Respondent using the disputed domain name. The fraudulent email was signed using the name of a former employee of the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy requires the Complainant to establish that:

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

A. Identical or Confusingly Similar

The Complainant has provided evidence for rights in the ADEO mark, established by its ownership of the registrations described above.

The disputed domain name <adeoservices-france.com> is composed of the Complainant's ADEO mark in combination with the elements "services", a hyphen, "France" and the generic Top-Level Domain ("gTLD" extension ".com").

The Complainant's ADEO mark is recognizable in the disputed domain name.

The elements "services", the hyphen, and "France" do not prevent a finding of that the disputed domain name is confusingly similar to the ADEO mark. It is the consensus view of UDRP panels that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), section 1.8.

Neither does the gTLD extension ".com" prevent a finding that the disputed domain name is confusingly similar to the Complainant's mark as it would be considered as a necessary technical requirement for a domain name.

This Panel finds therefore that the disputed domain name <adeoservices-france.com> is confusingly similar to the ADEO mark in which the Complainant has rights and the Complainant has therefore succeeded in the first element of the test in Policy 4(a)(i).

B. Rights or Legitimate Interests

The Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name arguing that:

- to the Complainant's knowledge Respondent has never registered ADEO as a trademark and has never acquired any common law rights in ADEO, therefore the Respondent can have no rights in the disputed domain name;
- the Complainant has neither authorised nor licensed the Respondent in any way to use or exploit the ADEO mark, to register the disputed domain name or to associate itself with the Complainant;
- the Complainant has never known the Respondent, nor has it had any relationship with the Respondent;
- the email correspondence adduced in evidence in an annex to the Complaint, shows that the Respondent has used the disputed domain name to create an email account which is being used for phishing;
- the Respondent clearly intends to use the disputed domain name to take advantage of its resemblance to the Complainant's ADEO mark;
- the Respondent's use of the disputed domain name for the purposes of phishing cannot constitute a

bona fide use, nor can it constitute a legitimate noncommercial or fair use because the Respondent is using the Complainant's mark in the disputed domain name to create confusion in the minds of the public creating the impression that the disputed domain name is the property of the Complainant.

It is well established that once a complainant makes out a *prima facie* case that a respondent has no rights or legitimate interests in the domain name at issue, the burden of production shifts to the respondent to prove its rights or legitimate interests.

The Respondent has failed to discharge that burden and therefore this Panel must find that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has therefore succeeded in the second element of the test in Policy 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant has shown that it has a long and extensive reputation and goodwill in the ADEO mark and that it has acquired a high degree of recognition in the marketplace. The Respondent on the other hand has no rights or legitimate interests in the disputed domain name which incorporates the ADEO mark.

There is no suggestion anywhere in the evidence that the disputed domain name may have been registered for any reason other than to create an association with the Complainant's goodwill and reputation in the ADEO mark.

This Panel accepts the Complainant's submission therefore and finds that the disputed domain name was chosen and registered in bad faith with actual knowledge of the Complainant with the intention of targeting and taking predatory advantage of the Complainant, its reputation, and its goodwill in the ADEO mark.

As to the manner in which it has been used, the evidence shows that the disputed domain name does not resolve to any active website but instead has been used to create an email account from which the Respondent has sent at least one email, impersonating the Complainant, and one of the Complainant's named former employees. The email was sent to one of the Complainant's suppliers purporting to place a high value order.

Such use of the disputed domain name for the purposes of phishing constitutes use in bad faith for the purposes of the Policy.

This Panel finds therefore that the disputed domain name is being used in bad faith for the purposes of phishing by sending email correspondence to one of the Complainant's suppliers, purporting to be the Complainant, and purporting to place an order with what is on the balance of probabilities fraudulent intent.

As this Panel has found that the disputed domain name was registered and is being used in bad faith, the Complainant has succeeded in the third element of the test in Policy 4(a)(iii).

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, <adeoservices-france.com>, be transferred to the Complainant.

/James Bridgeman/
James Bridgeman
Sole Panelist
Date: June 10, 2022