

ADMINISTRATIVE PANEL DECISION

Eurovia v. Privacy Service Provided by Withheld for Privacy ehf / eric zemmour

Case No. D2022-1680

1. The Parties

The Complainant is Eurovia, France, represented by ORDIPAT, France.

The Respondent is Domain Admin, Privacy Service Provided by Withheld for Privacy ehf, Iceland / Eric Zemmour, France.

2. The Domain Name and Registrar

The disputed domain name <eurovia-fr.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 9, 2022. On May 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 9, 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 May 13, 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 an amended Complaint on May 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 the Respondent of the Complaint, and the proceedings commenced on May 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 28, 2022.

The Center appointed Isabelle Leroux as the sole panelist in this matter on July 12, 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 Eurovia, a French company created more than 30 years ago, in 1988. It is a leading international player in the transport infrastructure and urban development sectors. The Complainant conducts its business worldwide in 16 countries. Its turnover for 2018 amounted to EUR 8.9 billion. The Complainant is also a subsidiary of VINCI, one of the largest global companies in the concessions and construction trades.

For the needs and purposes of its activities, the Complainant is the owner of numerous trademarks, including the following:

- French trademark EUROVIA No. 1439722 filed on October 21, 1987, in classes 2, 4, 19, 37, 40, and 42.
- International trademark EUROVI No. 521073 filed on February 16, 1988, in classes 2, 4, 19, 37, 40, and 42, and designating Benelux, Switzerland, Germany, Spain, Italy, and Portugal;
- French trademark EUROVIA No. 96646529 filed on October 17, 1996, in classes 35, 36, 42, and 45;
- International trademark EUROVIA No. 675408 filed on April 21, 1997, in classes 2, 4, 19, 35, 36, 37, 40, and 42, and designating, Albania, Austria, Bosnia- Herzegovina, Bulgaria, Benelux, Switzerland, Czech Republic, Germany, Spain, Hungary, Croatia, Italy, Latvia, Poland, Portugal, Russian Federation, Slovenia, Slovakia;
- United States of America trademark EUROVIA No. 78205062 filed on January 20, 2003, in classes 2, 4, 19, 37, 40, and 42;
- European Union semi-device trademark EUROVIA VINCI No. 008209579 filed on April 9, 2009, in classes 2, 14, 19, 35, 36, 37, 40, and 42.

Hereafter the "Trademarks".

The Complainant also owns several domain names containing the sign EUROVIA, including the following:

- <eurovia.com> registered on February 25, 1998;
- <eurovia.fr> registered on October 6, 2005;
- <eurovia.eu> registered on June 9, 2006.

The Disputed Domain Name <eurovia-fr.com> was registered on April 10, 2022, and reverts to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

The Disputed Domain Name is identical or at least confusingly similar to the Complainant's Trademarks since the Disputed Domain Name is composed of the Complainant's Trademarks and its business name.

The Respondent has no rights nor legitimate interests in the Disputed Domain Name since:

- The Complainant does not own any EUROVIA prior trademarks;
- The Complainant has never granted any license or authorization of use to the Respondent;
- The Respondent is not commonly known under the Disputed Domain Name;
- There is no evidence that the Respondent has a history of using, or preparing to use, the Disputed Domain Name in connection with a *bona fide* offering of goods and services.

The Respondent registered and used the Disputed Domain Name in bad faith given the following factors:

- The Disputed Domain Name used to resolve to a pay-per-click page, one of those links being a link to a Complainant's competitor;
- The Disputed Domain Name fully reproduces the Complainant's arbitrary Trademarks and business name;
- The Respondent ignored the cease and desist letter sent by the Complainant's representative;
- The Respondent used the Disputed Domain Name to create email addresses impersonating employees of the Complainant.

Finally, the Complainant requests 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

A. Identical or Confusingly Similar

First of all, the Panel finds that the Complainant has provided evidence that it has prior rights in the EUROVIA Trademarks since they have been filed and registered several years before the Disputed Domain Name.

The Panel notices that the Disputed Domain Name is composed of the identical reproduction of the EUROVIA Trademarks, to which has been added (i) the letters "fr" (ii) as well as the generic Top-Level Domain (gTLD) ".com".

The addition of the letters "fr" does not avoid a finding of a confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

Furthermore, the gTLD ".com" is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

Consequently, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademark. The first element of paragraph 4(a)(i) of the Policy is thus fulfilled.

B. Rights or Legitimate Interests

Numerous UDRP panels have found that, even though the Complainant bears the general burden of proof under paragraph 4(a)(ii) of the UDRP, the burden of production shifts to the Respondent once the Complainant makes a *prima facie* showing that the Respondent lacks rights or legitimate interests. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Hence, after the Complainant has made a *prima facie* showing that the Respondent has no rights or legitimate interests in the Disputed Domain Name, it will be deemed to have satisfied paragraph 4(a)(ii) of the UDRP when the Respondent fails to submit a response.

In this case, the Complainant brings forward the following elements:

- No license or permission has been granted by the Complainant to the Respondent;
- There is no evidence that the Respondent is known under the Disputed Domain Name, has ever traded legitimately under it, as a business name, nor that he ever had any trademark rights or any prior rights on such name;
- The Complainant has no relationship whatsoever with the Respondent;
- The Respondent is using the Disputed Domain Name to impersonate the Complainant in a fraudulent email scheme.

Therefore, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name.

The Respondent has not come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name. Moreover, the addition of “fr” in the composition of the Disputed Domain Name could be interpreted as a reference to France, the Complainant’s location, and thus carries a risk of implied affiliation to the Complainant, contrary to the fact, which the Respondent has clearly sought to capitalize upon via the use of the Disputed Domain Name for a fraudulent email scheme. The use of the Disputed Domain Name for illegal activity (*i.e.*, fraud) can never confer rights or legitimate interests upon a respondent. See [WIPO Overview 3.0](#), section 2.13.

Given these circumstances, the Panel finds that the second element of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the Disputed Domain Name was registered and is being used by the Respondent in bad faith.

It is commonly admitted that the use of the domain name to send emails impersonating the Complainant to target its customers using a fraudulent scheme constitutes bad faith (See *Minerva S.A. v. Whoisguard Protected, Whoisguard, Inc., / Greyhat Services*, WIPO Case No. [D2016-0385](#)).

It is established that the Respondent impersonated the Complainant by sending emails allegedly signed by the Complainant’s employees and incorporating the Complainant’s Trademark and logo.

The Panel accepts that this was a clear attempt to target the Complainant’s customers using a fraudulent scheme. This behavior clearly indicates that the Disputed Domain Name was registered and is being used in bad faith, especially as the Disputed Domain Name reverts to an inactive website.

In addition, the Respondent’s failure to formally reply to the Complainant’s contentions give no other basis to the Panel to believe that the Disputed Domain Name might conceivably be put to good faith use.

Taking into account all of the above, 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.

Consequently, the Panel finds that the Disputed Domain Name was registered and used in bad faith, so that the third and final element of paragraph 4(a)(iii) of Policy is met.

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, <eurovia-fr.com>, be transferred to the Complainant.

/Isabelle Leroux/

Isabelle Leroux

Sole Panelist

Date: July 26, 2022