

ADMINISTRATIVE PANEL DECISION

Financiere de l'Echiquier v. Sophie Denoyelle, Pharma
Case No. D2022-2371

1. The Parties

The Complainant is Financiere de l'Echiquier, France, represented by Novagraaf France, France.

The Respondent is Sophie Denoyelle, Pharma, France.

2. The Domain Name and Registrar

The disputed domain name <lfde-patrimoine.com> (the "Disputed Domain Name") is registered with CloudFlare, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 29, 2022. On June 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 1, 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 July 5, 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 July 5, 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 July 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 26, 2022. On July 25, 2022, the Center received informal email communications from the Respondent. The Center notified the commencement of panel appointment process on July 27, 2022.

The Center appointed Isabelle Leroux as the sole panelist in this matter on August 8, 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 Financiere de l'Echiquier, a French asset management company created September 27, 1989.

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

- European Union Trade Mark LFDE No. 014088835 filed on May 18, 2015, and registered on September 23, 2015, in classes 35, 36, and 42;

Hereafter the "Trademark".

The Complainant also owns the following domain name containing the sign LFDE: <lfde.com> registered on September 15, 2016.

The Disputed Domain Name <lfde-patrimoine.com> was registered on March 22, 2022, and resolves to an error page.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

a) The Disputed Domain Name is identical or at least confusingly similar to the Complainant's Trademark since it fully incorporates the Complainant's Trademark with the addition of the term "patrimoine".

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

- The Respondent does not own any LFDE or LFDE PATRIMOINE trademark;
- The Respondent is not commonly known by the Disputed Domain Name;
- The Complainant has never granted any license or authorization to use its Trademarks to the Respondent.

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

- The Disputed Domain name remains inactive since its registration, which shows that the Respondent has no intention of using the Disputed Domain name;
- The Complainant's customers have received fraudulent emails from email addresses containing "@lfde-patrimoine.com" and impersonating the Complainant (although the Complainant provides no evidence of this fact);
- The Respondent could not be unaware of the existence of the Complainant's rights since (i) the term "LFDE" is perfectly distinctive and since (ii) the added French term "patrimoine" is linked to the Complainant's activity which includes wealth management services.

Finally, the Complainant requests that the Disputed Domain Name be transferred to the Complainant.

B. Respondent

The Respondent answered to the Complaint by email dated July 25, 2022.

The Respondent claims that she has paid for the Disputed Domain Name and that she refuses to transfer the Disputed Domain Name to the Complainant unless the Complainant made a “serious offer” to purchase the Domain Name.

The Respondent also added that she did not understand the purpose of the Complaint as the Disputed Domain Name was not used.

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 LFDE Trademark since it has been registered several years before the Disputed Domain Name.

Then, the Panel notices that the Disputed Domain Name is composed of the identical reproduction of the Trademark in its entirety, to which has been added the term “patrimoine”.

The addition of the French term “patrimoine” (“estate” or “heritage” in English) does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8,

Furthermore, the generic Top-Level Domain (“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 authorization has been granted by the Complainant to the Respondent;
- The Respondent is not known under the Disputed Domain Name, nor does it has any trademark rights on the term “LFDE”; and
- The Respondent has not used the Disputed Domain Name for a *bona fide* offering of goods or services and the Disputed Domain Name resolves to an error page.

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. Moreover, the Panel notes that the nature of the Disputed Domain Name carries a risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1).

Furthermore, the Respondent has not come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name. The Respondent does not provide any evidence of any actual or future use of the domain name, and indicates that she is expecting a serious offer from the Complainant to buy the domain name.

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.

The Panel considers that the Respondent could not plausibly ignore the existence of the Complainant's LFDE Trademark at the time of the registration of the Disputed Domain Name since (i) the Disputed Domain Name was registered many years after the registration of the Complainant's Trademark, (ii) the term "LFDE" is perfectly arbitrary and (ii) the term "patrimoine" directly refers to the Complainant's activity.

The Panel finds that the registration was therefore made in bad faith.

As to the use of the Disputed Domain Name in bad faith, the Panel has evidenced that the Disputed Domain Name resolves to an error page. This use constitutes a passive holding that would not prevent a finding of bad faith use.

The lack of use of the Disputed Domain Name, and the Respondent's reply to the Complainant's contentions asking for "serious" money, provide no basis for 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 the 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, <lfde-patrimoine.com>, be transferred to the Complainant.

/Isabelle Leroux/

Isabelle Leroux

Sole Panelist

Date: August 22, 2022