

ADMINISTRATIVE PANEL DECISION

Holding Benjamin et Edmond de Rothschild, Pregny Société Anonyme v.
Privacy service provided by Withheld for Privacy ehf / Nicole Vansebrouck
Case No. D2022-2432

1. The Parties

The Complainant is Holding Benjamin et Edmond de Rothschild, Pregny Société Anonyme, Switzerland, represented by OX Avocats, France.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Nicole Vansebrouck, France.

2. The Domain Name and Registrar

The disputed domain name <edmondderthschild-private-equity.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 5, 2022. On July 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 5, 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 6, 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 11, 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 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 2, 2022.

The Center appointed Kaya Köklü as the sole panelist in this matter on August 4, 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 an internationally active holding with its registered seat in France. The Complainant and its group members particularly provide financial services.

The Complainant is owner of the EDMOND DE ROTHSCHILD trademark, which is registered in numerous jurisdictions. For instance, the Complainant is the owner of the French Trademark Registration No. 3701735, registered on December 29, 2009, and the International Trademark Registration No. 104701, registered on June 21, 2010, both covering protection *inter alia* for financial and related services as protected in classes 35 and 36 (Annexes 4 and 5 to the Complaint).

The disputed domain name was registered on March 14, 2022 and apparently does not resolve to an active website.

The Respondent is reportedly an individual from France.

5. Parties' Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name is confusingly similar to its EDMOND DE ROTHSCHILD trademark.

The Complainant further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In addition, the Complainant is convinced that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraphs 14 and 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable and on the basis of the Complaint where no formal response has been submitted.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

(i) the disputed domain name is identical or confusingly similar to a trademark 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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has registered trademark rights in the EDMOND DE ROTHSCHILD mark by virtue of various trademark registrations, including a trademark registration covering protection in France, where the Respondent is reportedly located.

The Panel further finds that the disputed domain name is confusingly similar to the Complainant's registered EDMOND DE ROTHSCHILD trademark, as it fully incorporates the Complainant's trademark. As stated at section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would generally not prevent a finding of confusing similarity. The mere addition of the words "private" and "equity" does not, in view of the Panel, serve to prevent a finding of confusing similarity between the disputed domain name and the Complainant's EDMOND DE ROTHSCHILD trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel further finds that the Respondent has failed to demonstrate any rights or legitimate interests in the disputed domain name.

While the burden of proof on this element remains with the Complainant, previous UDRP panels have recognized that this would result in the often impossible task of proving a negative, in particular as the evidence in this regard is often primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name in order to meet the requirements of paragraph 4(a)(ii) of the Policy. See, *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Panel finds that the Complainant has satisfied this requirement, while the Respondent has failed to file any evidence or make any convincing argument to demonstrate rights or legitimate interests in the disputed domain name according to the Policy, paragraphs 4(a)(ii) and 4(c).

In its Complaint, the Complainant has provided uncontested *prima facie* evidence that the Respondent has no rights or legitimate interests to use the Complainant's trademark EDMOND DE ROTHSCHILD in a confusingly similar way within the disputed domain name.

There is also no indication in the current record that the Respondent is commonly known by the disputed domain name. In the absence of a response, the Respondent has also failed to demonstrate any of the

other non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or other evidence of rights or legitimate interests in the disputed domain name.

Finally, the Panel notes that the composition of the disputed domain name carries a significant risk of implied affiliation or endorsement, as stated in section 2.5.1 of the [WIPO Overview 3.0](#).

As a conclusion, the Panel finds that the Complainant has also satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

In the Panel's view, the Respondent has registered and is using the disputed domain name in bad faith.

The Panel is convinced that the Respondent must have had the Complainant's trademark and its private equity services in mind when registering the disputed domain name. At the date of registration of the disputed domain name, the Complainant's EDMOND DE ROTHSCHILD trademark was already registered, and used for many years. The Panel has no doubt that the Respondent has registered the disputed domain name to target and mislead Internet users who are searching for official information on the Complainant and its private equity services.

With respect to use of the disputed domain name in bad faith, as already indicated before, the disputed domain name has apparently not been linked to an active website yet. Nonetheless, and in line with previous UDRP decisions (*e.g. Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)) and section 3.3 of the [WIPO Overview 3.0](#), the Panel concludes that the non-use of the disputed domain name in this case does not prevent a finding of bad faith.

Applying the passive holding doctrine as summarized in section 3.3 of the [WIPO Overview 3.0](#), the Panel assesses the Complainant's EDMOND DE ROTHSCHILD trademark as sufficiently distinctive for financial services and known in the relevant customer circles, so that the Panel cannot conceive of any plausible and legitimate use of the disputed domain name that would be in good faith, except with an authorization of the Complainant.

Furthermore, the Panel accepts that the failure of the Respondent to submit a substantive response to the Complainant's contentions as an additional indication for bad faith.

Taking all circumstances of this case into consideration, the Panel concludes that in the present case the passive holding of the disputed domain name constitutes bad faith use by the Respondent. In fact, the Panel is convinced that this is a typical cybersquatting case, which the UDRP was designed to stop.

Consequently, the Panel finds that the disputed domain name was registered and is being used in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, paragraph 4(a)(iii) of the Policy.

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 <edmondder Rothschild-private-equity.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: August 18, 2022