

## **ADMINISTRATIVE PANEL DECISION**

Expleo Group v. Super Privacy Service LTD c/o Dynadot / yuangang peng,  
yuangang peng  
Case No. D2022-2474

### **1. The Parties**

Complainant is Expleo Group, France, represented by ORDIPAT, France.

Respondent is Super Privacy Service LTD c/o Dynadot, United States of America / yuangang peng,  
yuangang peng, China.

### **2. The Domain Name and Registrar**

The Disputed Domain Name <expleosrl.com> is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 7, 2022. On July 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 8, 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 July 12, 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 July 16, 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 July 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 15, 2022.

The Center appointed Richard W. Page as the sole panelist in this matter on August 18, 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 recognized as one of the largest engineering and business innovation consulting companies in the world. Complainant has used the word EXPLEO as a company name since its creation in 2017. Complainant owns numerous valid registrations of trademarks using the word EXPLEO (the “EXPLEO Mark”) throughout the world.

Examples, without limitation, are European Union registration for EXPLEO, No. 017953169 filed on September 10, 2018 and registered on May 15, 2019 in class 45; European Union registration for EXPLEO, No. 018031313 filed on September 10, 2018 and registered on March 28, 2019 in classes 9, 35, 37, and 42; International registration for EXPLEO, No. 1462338 registered on January 30, 2019 in classes 9, 35, 37, 42, and 45.

Complainant is also the registrant of a large number of domain names (approximately 200 – duly renewed), most of them composed exclusively of, or including the word EXPLEO. For example, without limitation: <explexoconsulting.fr> registered March 5, 2019 and <expleo.com> registered December 26, 2001.

The Disputed Domain Name was registered on April 24, 2022 and redirects to a website displaying pay-per-clicks ads for online casinos and sport bets.

On June 27, 2022, Complainant sent a cease and desist letter by email to Registrar’s email addresses as well as through the online form proposed by the Registrar. These queries remain unanswered to date.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant contends that the Disputed Domain Name is composed of the Mark EXPLEO, followed by the letters “srl”. Complainant further contends that the Disputed Domain Name includes the EXPLEO Mark its entirety and that the EXPLEO Mark is perfectly recognizable within the Disputed Domain Name.

Complainant further contends that the letters “srl” are an acronym for the company form “Société à Responsabilité Limitée” in French, “Società a Responsabilità Limitata” in Italian and “Sociedad de Responsabilidad Limitada” in Spanish, “Societate cu Răspundere Limitată” in Romanian and “Society with Restricted Liability” in Barbados, which all mean “limited liability company” and correspond to the abbreviation “LLC” in English. This acronym is therefore a term which is not sufficient to prevent a finding of confusing similarity between the Disputed Domain Name and the EXPLEO Mark.

Complainant further contends that the gTLD suffix “.com” does not alter or diminish the confusing similarity between the EXPLEO Mark and the Disputed Domain Name, since it is necessary for the registration of the domain name itself.

Complainant asserts that Respondent has not registered the EXPLEO Mark anywhere in the world. Complainant further asserts that Respondent has never been authorized, licensed, contracted, or otherwise permitted by Complainant to use the EXPLEO Mark, nor has Complainant acquiesced in any way to such use or registration.

Complainant further asserts that Respondent is not known by the Disputed Domain Name and cannot provide any evidence of a *bona fide* offering of good or services, any evidence of circumstances of the type specified in paragraph 4(c) of the Policy, or any other circumstances giving rise to a right or legitimate

interest in the Disputed Domain Name.

Complainant further asserts that the Disputed Domain Name resolves to a webpage displaying pay-per-click ads for online casinos and sport betting. When clicking on these ads, the user is redirected to other pages displaying either downloading malware or resolving to online casino websites.

Complainant further asserts that, as stated in Section 2.13.1 of the WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the use of a domain name for illegal activity (e.g., distributing malware, unauthorized account hacking, passing off, or other types of fraud) can never confer rights or legitimate interests. In the present case, the Disputed Domain Name displays links to download of a malware program and cannot be seen as a *bona fide* offering of goods and services. Furthermore, Complainant is known internationally. It employs 15,000 people worldwide, including in China, where Respondent is located. Complainant further asserts that news articles and press releases demonstrate that EXPLEO is now recognized as one of the largest engineering and business innovation consulting companies in the world.

Complainant further asserts that Respondent has never answered the cease and desist letter and never attempted to explain any plans to show a *bona fide* use to the Disputed Domain Name. On the contrary, Respondent could not ignore, before notice of the present dispute, the existence of the EXPLEO Mark. Upon receipt of the cease and desist letter, Respondent still had the choice between either registering an alternative domain name, or explaining to Complainant its intention to make a fair and legitimate use of the Disputed Domain Name. But on the contrary, it chose to intentionally go on ignoring the cease and desist letter, and doing so, Respondent chose to ignore Complainant's rights.

Complainant alleges that Respondent has intentionally attempted to attract for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the EXPLEO Mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

Complainant further alleges that the Disputed Domain Name is resolving to a webpage displaying clickable ads for online casinos and gambling websites. One of these links opens a new window starting to download malware. The other links displayed on the main landing page of the Disputed Domain Name resolve to a functional online casino and gambling website.

Complainant further alleges that by registering and using the Disputed Domain Name this way, the intention of Respondent was without any doubt to obtain a commercial gain for this Disputed Domain Name. Respondent has taken advantage of the likelihood of confusion with the EXPLEO Mark to attract Internet users to websites that generate revenue, which constitutes bad faith.

Complainant further alleges that Respondent, who chose to conceal its identity, could not ignore that the Disputed Domain Name corresponds to registered trademark rights. Therefore, Respondent could not ignore that by registering the Disputed Domain Name corresponding to prior registered EXPLEO Mark, Respondent would take the risk of infringing these intellectual property rights. Given the fact that the word EXPLEO is not a common noun nor a common name, in any language, it must be considered Respondent registered the Disputed Domain Name intentionally and especially because Respondent knew of the EXPLEO Mark. EXPLEO is not a generic name or a name of which it is likely that a potential domain name registrant would accidentally think of. At least a simple trademark register search, or even a Google search, prior to registration of the Disputed Domain Name would have informed Respondent of the existence of the EXPLEO Mark.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.”

Even though Respondent has failed to file a Response or to contest Complainant’s assertions, the Panel will review the evidence proffered by Complainant to verify that the essential elements of the claims are met. See section 4.3 of the [WIPO Overview 3.0](#).

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the EXPLEO Mark in which Complainant has rights; and
- ii) that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- iii) that the Disputed Domain Name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

Section 1.2.1 of the [WIPO Overview 3.0](#) states that registration of a trademark is *prima facie* evidence of Complainant having enforceable rights in the EXPLEO Mark.

Complainant’s allegations of registrations for the EXPLEO Mark have not been contested by Respondent.

Therefore, the Panel finds that for purposes of this proceeding, Complainant has enforceable rights in the EXPLEO Mark.

Section 1.7 of the [WIPO Overview 3.0](#) says that inclusion of the entire trademark in a domain name will be considered confusingly similar. Also, Section 1.8 of the [WIPO Overview 3.0](#) instructs that the addition of other terms (whether descriptive, geographical, pejorative, meaningless or otherwise) does not prevent a finding of confusing similarity. Also, Section 1.11.1 of the [WIPO Overview 3.0](#) instructs that gTLDs such as (“.com”) may be disregarded for purposes of assessing confusing similarity.

Complainant contends that the Disputed Domain Name is composed of the Mark EXPLEO, followed by the letters “srl”. Complainant further contends that the letters “srl” are an acronym for the company form “Société à Responsabilité Limitée” in French, “Società a Responsabilità Limitata” in Italian and “Sociedad de Responsabilidad Limitada” in Spanish, “Societate cu Răspundere Limitată” in Romanian and “Society with Restricted Liability” in Barbados, which all mean “limited liability company” and correspond to the abbreviation “LLC” in English. This acronym is therefore a term which is not sufficient to prevent a finding of confusing similarity between the Disputed Domain Name and the EXPLEO Mark.

The Panel finds that the entirety of the EXPLEO Mark is included in the Disputed Domain Name. The Panel further finds that the gTLD suffix “.com” does not prevent a finding of confusing similarity between the EXPLEO Mark.

Therefore, the Panel finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

Complainant contends that Respondent has no rights or legitimate interest in the Disputed Domain Name pursuant to paragraph 4(a)(ii) of the Policy.

Section 2.1 of the [WIPO Overview 3.0](#) states that once Complainant makes a *prima facie* case in respect of the lack of rights or legitimate interests of Respondent, Respondent carries the burden of demonstrating it has rights or legitimate interests in the Disputed Domain Name. Where Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Name:

(i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services; or

(ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the EXPLEO Mark.

Complainant asserts that Respondent is not known by the Disputed Domain Name.

Complainant further asserts that the Disputed Domain Name resolves to a webpage displaying pay-per-click ads for online casinos and sport betting. When clicking on these ads, the user is redirected to other pages either downloading malware or resolving to online casino websites.

Complainant further asserts that, as stated in Section 2.13.1 of the [WIPO Overview 3.0](#), the use of a domain name for illegal activity (e.g., distributing malware, unauthorized account hacking, passing off, or other types of fraud) can never confer rights or legitimate interests.

The Panel finds that Complainant has stated a *prima facie* showing that Respondent lacks rights and legitimate interests in the Disputed Domain Name. Respondent has not contested this showing.

Therefore, Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Complainant contends that Respondent registered and is using the Disputed Domain Name in bad faith in violation of paragraph 4(a)(iii) of the Policy.

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

(i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the EXPLEO Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or

(ii) you [Respondent] have registered the Disputed Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Disputed Domain Name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the EXPLEO Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on your website or location.

The four criteria set forth in paragraph 4(b) of the Policy are nonexclusive. See, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) (“Telstra”). In addition to these criteria, other factors alone or in combination can support a finding of bad faith.

Complainant alleges that the Disputed Domain Name is resolving to a webpage displaying clickable ads for online casinos and gambling websites. One of these links opens a new window starting to download malware. The other links displayed on the main landing page of the Disputed Domain Name resolve to a functional online casino and gambling website.

Complainant further alleges that by registering and using the Disputed Domain Name this way, the intention of Respondent was without any doubt to obtain a commercial gain for this Disputed Domain Name. Respondent has taken advantage of the likelihood of confusion with the EXPLEO Mark to attract Internet users to websites that generate revenue, which constitutes bad faith.

The Panel finds that Complainant has demonstrated the existence of the elements of paragraph 4(b)(iv) of the Policy. In addition, distributing malware is an additional *Telstra* factor supporting bad faith.

Complainant has met the requirements of 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 <expleosrl.com> be transferred to Complainant.

*/Richard W. Page/*

**Richard W. Page**

Sole Panelist

Date: August 30, 2022