

ADMINISTRATIVE PANEL DECISION

Louis Dreyfus Trademarks B.V. v. Name Redacted
Case No. D2022-3692

1. The Parties

The Complainant is Louis Dreyfus Trademarks B.V., Netherlands, represented by Inlex IP Expertise, France.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <ld-distribution.com> is registered with Registrar of Domain Names REG.RU LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 4, 2022. On October 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 6, 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 October 10, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant did not file an amendment to the Complaint. On October 10, 2022, the Center also sent a document in English and Russian in relation to the language of the proceeding. On October 13, 2022, the Complainant requested that the language of the proceeding be English. The Respondent did not make any comments on the language of the proceeding.

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

¹ The Respondent appears to have used the name and/or contact details of Complainant’s subsidiary when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 October 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 9, 2022.

The Center appointed Assen Alexiev as the sole panelist in this matter on November 15, 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 a global merchant firm founded in 1851. It is involved in agriculture, food processing and agricultural commodity trading. The company makes up about 10 percent of the world’s agricultural product trade flows. It is present in more than 100 countries and its 2021 net sales were USD 49.6 billion.

The Complainant is the owner of the following trademark registrations for the sign “LD” (the “LD trademark”):

- the European Union Trade Mark LD with registration No. 006336432, registered on April 27, 2009 for goods and services in International Classes 1, 4, 6, 7, 9, 12, 19, 22, 23, 24, 29, 30, 31, 32, 35, 36, 37, 38, 39, 40 and 42;
- the European Union Trade Mark LD with registration No. 006387559, registered on September 24, 2009 for goods and services in International Classes 1, 4, 6, 7, 22, 23, 29, 30, 31, 32, 35, 36, 37, 39 and 40;
- the International trademark LD with registration No. 958963, registered on January 29, 2008 for goods and services in International Classes 1, 3, 4, 6, 7, 9, 12, 19, 22, 23, 24, 29, 30, 31, 32, 35, 36, 37, 38, 39, 40 and 42; and
- the International trademark LD with registration No. 958504, registered on January 29, 2008 for goods and services in International Classes 1, 3, 4, 6, 7, 9, 12, 19, 22, 23, 24, 29, 30, 31, 32, 35, 36, 37, 38, 39, 40 and 42.

The Complainant is also the owner of the domain names <foundation-ld.com>, <ld-commodities.com>, <ld-foundation.com>, <ldbusiness.com>, <ldcommodities.com>, <ldcoffee.com>, <ldcitrus.com>, <ldcanada.com>, <ldindustry.com> and <ldnegoce.com>.

The disputed domain name was registered on February 28, 2022. It is currently inactive. At the time of filing of the Complaint, the disputed domain name resolved to a parking webpage.

5. Parties’ Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to the LD trademark, because it incorporates this trademark in full in combination with the dictionary word “distribution”, which does not eliminate the risk of confusion with the Complainant’s trademark, especially as this term describes the field of activity of the Complainant.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because the Respondent is not commonly known under the name "LD" and does not have trademark rights in this sign. The Complainant maintains that it has not authorized the Respondent to use its LD trademark or to apply for or use any domain name incorporating the same trademark, and there is no business relationship between the Parties. The Complainant states that the disputed domain name is not used in connection with a *bona fide* offering of goods or services and its use is not a legitimate non-commercial fair use.

The Complainant contends that the disputed domain name was registered and is being used in bad faith.

According to it, it is unlikely that at the time of the registration of the disputed domain name the Respondent was unaware of the Complainant's activities and of the existence and use of the LD trademark which is the common abbreviation of "Louis Dreyfus", itself a well-known trademark. The Complainant maintains that the Respondent registered the disputed domain name not as a coincidence but as a deliberate attempt to take advantage of the Complainant's recognition and reputation with the aim to attract Internet users and to provoke confusion in the mind of consumers who may mistakenly think that the website under the disputed domain name is the official website of the Complainant.

According to the Complainant, the registration of the disputed domain name was made for fraudulent purposes. The Complainant notes that a French business partner informed it that it had received emails from an email address at the disputed domain name for the purchase of products. Through this correspondence, the Respondent tried to enter in a business partnership with the Complainant's partner by impersonating the Complainant. The Complainant adds that the emails sent by the Respondent included the distinctive elements of the Complainant, such as the company name of the Complainant's French subsidiary and the associated logo, and indicated the name of the Director of this subsidiary. The Complainant maintains that the Respondent is therefore engaged in a phishing scheme, aiming to mislead the Complainant's suppliers by misusing the Complainant's identity and making them believe that they are dealing with the Complainant, in order to extort money from them. The Complainant adds that the fraudulent activities conducted under the disputed domain name disturb the Complainant's business as it may damage the Complainant's reputation and lead to a lack of trust from suppliers, customers and the Internet users.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural issue – Language of the proceeding

According to the information provided by the Registrar, the language of the Registration Agreement for the disputed domain name is Russian. Under paragraph 11 of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Complainant requests that the language of the proceedings be English. It submits that the Respondent understands English, because the disputed domain name includes Latin letters rather than Russian script, the Respondent has specified a physical address in France and phone number with a French area code, rather than in the Russian Federation, and the Respondent has sent fraudulent emails in French to third parties rather than using the Russian language at any time.

The Center has sent all its communications to the Respondent in both English and Russian, and has invited the Respondent to express its views on the language of the proceeding. The Respondent has not submitted a Response or any objections to the Complainants' request that the proceedings be held in English. The

Respondent has not expressed any interest in participating in this proceeding.

In view of the above, the Panel finds no reasons to conclude that the Respondent would be disadvantaged if the language of the proceeding is English, and accepts that using the English language in this proceeding would be fair and efficient.

Therefore, in exercise of its powers under paragraph 11 of the Rules, the Panel decides that the language of this administrative proceeding be English.

6.2 Substantive issues

Pursuant to the Policy, paragraph 4(a), the Complainant must prove each of the following to justify the transfer of the disputed domain name:

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

In this case, the Center has employed the required measures to achieve actual notice of the Complaint to the Respondent, in compliance with the Rules, paragraph 2(a), and the Respondent was given a fair opportunity to present its case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: “[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name [...]”

The Respondent however did not submit a Response in this proceeding.

A. Identical or Confusingly Similar

The Complainant has provided evidence that it is the owner of various registrations of the LD trademark and has thus established its rights in this trademark for the purposes of the present proceeding.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the Top-Level Domain (“TLD”) section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The Panel sees no reason not to follow the same approach here, so it will disregard the “.com” gTLD section of the disputed domain name.

The disputed domain name incorporates the LD trademark in its entirety with the addition of the dictionary word “distribution”. These two elements are separated by a hyphen, which makes the LD trademark recognizable within the disputed domain name. Where the relevant trademark is recognizable within a 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 section 1.7 of the [WIPO Overview 3.0](#).

In view of the above, the Panel finds that the disputed domain name is confusingly similar to the LD trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, because the Respondent is not commonly known under it, does not have trademark rights in the sign “LD”, and because the Complainant has not authorized the Respondent to use its LD trademark and there is no business relationship between the Parties. The Complainant points out that the Respondent has configured an email address under the disputed domain name and has used it to send fraudulent emails impersonating the Complainant and the director of the Complainant’s French subsidiary. Thus, the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not submitted a Response and has not alleged that it has rights or legitimate interests in the disputed domain name and has not disputed the Complainant’s allegations in this proceeding.

The disputed domain name is composed of the LD trademark and the word “distribution”, which refers to the Complainant’s business, and follows the naming pattern of the domain names used by the Complainant. The evidence in the case file shows that it has indeed been used to set up an email account under it, and this email account has been used for the sending of emails pretending that their sender is the French subsidiary of the Complainant acting through its director. It is notable that the registrant of the disputed domain name is indicated a company of the Complainant’s group incorporated in France in 2006. The contact email address indicated by the registrant of the disputed domain name is however a Gmail account that does not appear to be related to the Complainant or to its French subsidiary, and the Respondent has not provided any evidence that the disputed domain name is under the control of the Complainant’s French subsidiary. All the above supports a finding that the Respondent has indeed impersonated the Complainant and the director of its French subsidiary in an attempt to induce a third party to enter into a business relationship with it by confusing it that it is dealing with the Complainant, and this attempt was made for financial gain.

In view of the above, the Panel finds that the Respondent, being well aware of the goodwill of the Complainant’s LD trademark, has registered the disputed domain name to impersonate the Complainant for commercial gain. To the Panel, such conduct does not appear to be legitimate nor giving rise to rights or legitimate interests of the Respondent in the disputed domain name.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the 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 have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you 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 complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The scenarios described in paragraph 4(b) of the Policy are non-exclusive and merely illustrative, so even where a complainant may not be able to demonstrate the literal or verbatim application of one of the above scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to the complainant's trademark would also satisfy the complainant's burden. See section 3.1 of the [WIPO Overview 3.0](#).

As discussed above, the disputed domain name is confusingly similar to the LD trademark and the name of its registrant coincides with the name of the Complainant's subsidiary in France, but there is no evidence to support a conclusion that the disputed domain name is under the control of this subsidiary of the Complainant. An email account has been set up under the disputed domain name, and this email account has been used for the sending of emails pretending that their sender is the French subsidiary of the Complainant acting through its director.

Taking the above into account, the Panel accepts that the Respondent has registered and used the disputed domain name with knowledge of the Complainant and targeting its LD trademark in an attempt to impersonate the Complainant's French subsidiary and its director to induce a third party to enter into a business relationship with it by confusing it that it is dealing with the Complainant, and this attempt to take unfair advantage of the LD trademark was made for financial gain.

This leads the Panel to the conclusion that the disputed domain name has been registered and used in bad faith.

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 <ld-distribution.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: November 29, 2022