

ADMINISTRATIVE PANEL DECISION

Paris Saint-Germain Football v. Libasto HANGBE

Case No. D2022-4652

1. The Parties

The Complainant is Paris Saint-Germain Football, France, represented by Plasseraud IP, France.

The Respondent is Libasto HANGBE, France.

2. The Domain Name and Registrar

The disputed domain name <myspgacademy.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 5, 2022. On December 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on December 7, 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 December 7, 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 December 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2023.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on January 10, 2023. 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

Given that no Response was filed, the following facts are based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant is a professional football club based in Paris, France.

The Complainant is the owner of several PSG and PSG ACADEMY trade marks, including in France where the Respondent appears to be based, including the following:

- French trade mark PSG filed on April 29, 2009, registered under No. 3647436; and
- French trade mark PSG ACADEMY filed on June 28, 2012, registered under No. 3930577

The Complainant is also the owner of numerous domain names reflecting its PSG trade mark and PSG ACADEMY trade mark including <psg.fr>, <psg.academy>, and <psgacademy.fr>.

The Domain Name was registered on April 29, 2022. At the time the Complaint was filed, the Domain Name resolved to a website impersonating the Complainant and reproducing the Complainant's PSG and PSG ACADEMY trade marks as well as pictures of some of the Complainant's football players. At the time of the Decision, the Domain Name did not resolve to any active website and triggered a "404 error" message.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to the PSG ACADEMY trade mark in which the Complainant has rights, as the Domain Name reproduces the PSG ACADEMY trade mark in its entirety as its dominant element, together with "my", which does not serve to distinguish the Domain Name from the trade mark in any significant way.

The Complainant asserts that the Respondent should be considered as having no rights or legitimate interests in respect of the Domain Name. The Complainant contends that the Domain Name does not correspond to the name of the Respondent or to any trade mark registered in the name of the Respondent. The Complainant has carried out searches on several trade mark databases and has not found any trade marks in the term "my psg academy" and all PSG ACADEMY trade marks are owned by the Complainant. The Complainant adds that to the best of the Complainant's knowledge, the Respondent is not known under the Domain Name, and has never been given any permission by the Complainant to use the Complainant's trade marks PSG or PSG ACADEMY in any way. Finally, the Complainant points to the use of the Domain Name to misleadingly impersonate the Complainant to conclude that (i) it is not a legitimate noncommercial or fair use of the Domain Name made without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue and (ii) it is not a *bona fide* offering of goods or services.

The Complainant contends that the Respondent has registered the Domain Name with full knowledge of the Complainant and its PSG and PSG ACADEMY trade marks which are well known globally, especially in France where the Respondent is based. In terms of use of the Domain Name in bad faith, the Complainant points to the fact that the Domain Name points to a webpage misleading Internet users into thinking that it is operated by or authorized by the Complainant and facilitating the collection of personal data and online payment from Internet users. The Complainant submits that such use of the Domain Name can only be seen as use of the Domain Name in bad faith. The Complainant also points to the fact that the Domain

Name has been set up to facilitate the sending of emails and that this constitutes a further indication of the Respondent's intention to use the Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

In order to prevail the Complainant must substantiate that the three elements of paragraph 4(a) of the Policy have been met for the Domain Name, namely:

- (i) the Domain Name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

In the case of default by a party, as is the case here, paragraph 14(b) of the Rules makes it clear that if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

In the absence of a Response from the Respondent whereby the Respondent did not object to any of the contentions from the Complainant, the Panel will have to base its decision on the basis of the Complaint and supporting Annexes.

A. Identical or Confusingly Similar

In light of the evidence provided by the Complainant, the Panel is satisfied that the Complainant has substantiated that it holds valid trade mark rights in the PSG ACADEMY trade mark, which is reproduced in its entirety in the Domain Name.

The second point that has to be considered is whether the Domain Name is identical or confusingly similar to the PSG ACADEMY trade mark in which the Complainant has rights. At the second level, the Domain Name incorporates the entire PSG ACADEMY trade mark with the mere addition of the term "my". The Panel finds that the PSG ACADEMY trade mark of the Complainant is instantly recognizable in the Domain Name and that the term added before the Complainant's PSG ACADEMY trade mark does not prevent a finding of confusing similarity arising from the incorporation of the Complainant's exact PSG ACADEMY trade mark in the Domain Name.

Then there is the addition of the generic Top Level-Domain ("gTLD") ".com". As is generally accepted, the addition of a gTLD such as ".com" is merely a technical registration requirement and as such is typically disregarded under the first element confusing similarity test.

Thus, the Panel finds that the Domain Name is confusingly similar to a trade mark or service mark in which the Complainant has rights.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out relevant circumstances that could demonstrate that a respondent has rights or legitimate interests in a domain name, namely: "Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall

demonstrate [the respondent's] rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to [the respondent] of the dispute, [the respondent's] use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [the respondent] (as an individual, business, or other organization) ha[s] been commonly known by the domain name, even if [the respondent] ha[s] acquired no trade mark or service mark rights; or
- (iii) [the respondent] is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.”

Numerous previous panels have found under the UDRP that once the Complainant makes a *prima facie* showing that the respondent does not have rights or legitimate interests in the domain name, the burden of production shifts to the respondent to rebut the showing by providing evidence of its rights or legitimate interests in the domain name.

Having reviewed the Complainant's assertions and evidence, the Panel is satisfied that the Complainant has made a *prima facie* showing that the Respondent does not have rights or legitimate interests in the Domain Name.

The Complainant has stated that the Respondent has no rights in the Domain Name and that it has not licensed or otherwise authorized the Respondent to make any use of its PSG ACADEMY trade mark.

There is no indication that the Respondent is commonly known by the Domain Name.

At the time the Complaint was filed, the Domain Name pointed to a website misleadingly impersonating the Complainant and reproducing trade marks, logos, and pictures of players of the Complainant. The Panel finds that such use of the Domain Name cannot be considered *bona fide*, legitimate, or fair.

Furthermore, the nature of the Domain Name, comprising the Complainant's trade mark in its entirety in combination with the term “my” carries a risk of implied affiliation. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

Thus, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a number of relevant non-exhaustive circumstances, which can be deemed to constitute evidence of registration and use of a domain name in bad faith, namely:

- “(i) circumstances indicating that [the respondent has] registered or acquired [a disputed] 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 trade mark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the domain name; or
- (ii) [the respondent has] registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] 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 [the respondent's] website or location or of a product or service on [the respondent's] website or location."

Given the circumstances described in the Complaint and the documentary evidence provided by the Complainant, the Panel finds that the Domain Name was registered in bad faith.

The Domain Name reproduces the exact PSG and PSG ACADEMY trade marks of the Complainant and this cannot be a coincidence. The Complainant has provided ample evidence of the substantial renown of the PSG trade mark and this was confirmed by previous panels under the Policy. This is particularly the case in France where the Respondent appears to be based, so the fact that the Respondent decided to register the Domain Name reproducing this trade mark strongly suggests that the Respondent had the Complainant's trade mark in mind and targeted it specifically.

Thus, the Panel finds that the Domain Name was registered in bad faith.

As for use of the Domain Name in bad faith, given the circumstances described in the Complaint and the documentary evidence provided by the Complainant, the Panel is satisfied that the Domain Name is used in bad faith.

At the time the Complaint was filed, the Domain Name pointed to a webpage misleading Internet users into thinking that it was operated or authorized by the Complainant and reproducing without authorization the Complainant's PSG and PSG ACADEMY trade marks as well as pictures of some of the Complainant's football players. The Panel finds that such use of the Domain Name clearly demonstrates that by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The fact that the Domain Name now seems to be held passively does not impact the Panel's finding of the Respondent's bad faith given the overall circumstances here, noting in particular the significant renown of the Complainant and its trade marks.

The fact that the Respondent chose not to object to the Complainant's assertions can only reinforce the Panel's view on the Respondent's bad faith.

Thus, the Panel finds that the Domain Name was being used in bad faith. Accordingly, the Complainant has met its burden of showing that the Domain Name was 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 Domain Name <myspgacademy.com> be transferred to the Complainant.

/Vincent Denoyelle/

Vincent Denoyelle

Sole Panelist

Date: January 24, 2023