

## **ADMINISTRATIVE PANEL DECISION**

Laforêt France v. Milen Radumilo

Case No. D2023-0223

### **1. The Parties**

The Complainant is Laforêt France, France, represented by Cabinet Bouchara, France.

The Respondent is Milen Radumilo, Romania.

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

The disputed domain name <la-foret.info> is registered with Communigal Communications Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 13, 2023. On January 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 22, 2023, 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 January 23, 2023 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 January 23, 2023.

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 January 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 21, 2023.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on February 23, 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**

The Complainant was founded in France and presently counts with a franchise network of nearly 700 real estate agencies providing services in the fields of sale, purchase and rental management, co-ownership management and commercial real estate.

The Complainant, in addition to the domain name <laforet.com>, registered on December 23, 1996, is the owner of the following, amongst other, trademark registrations:

- French trademark registration No. 3270835, for the word mark LAFÔRET, filed on January 30, 2004 and registered and subsequently renewed, in classes 16, 35, 36, 37, 38 and 42; and
- European Union trademark registration No. 3714763, for the word mark LAFORET, filed on March 15, 2004 and registered on December 22, 2005, subsequently renewed, in classes 16, 35, 36, 37, 38 and 42.

The disputed domain name was registered on September 17, 2022, and presently resolves to a parked webpage displaying pay-per-click (“PPC”) links to the Complainant’s competitors.

#### **5. Parties’ Contentions**

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

The Complainant asserts to be a leader in the real estate agency franchise network, providing services in the fields of sale, purchase and rental management, co-ownership management and commercial real estate.

According to the Complainant, its franchise network, active in France since 1991, counts with nearly 700 real estate agencies and 4,000 employees, presently enjoying the Complainant a high reputation in its field of specialty as French consumers elected the Complainant: “The best real estate agency of the year” in years 2018, 2019 and 2020; “The Best Franchise Award” in the “Real Estate” category, in years 2020 and 2021; “The Best Chain Store” Award in the “Real Estate” category, in the year 2021; as well as the “Customer Relations Trophy” in the year 2021.

Under the Complainant’s view, the disputed domain name apart from the hyphen is identical to the Complainant’s prior trademark and is therefore confusingly similar therewith under the Policy.

Moreover, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name given that:

- (i) the Respondent does not own any rights to the trademark that it reproduces, which belongs to the Complainant;
- (ii) the Respondent did not, at any time, request and obtain any authorization, on any ground whatsoever, to reproduce or imitate the Complainant’s trademarks within a domain name;
- (iii) there is no relationship whatsoever between the Parties as the Respondent is not related in any way to the Complainant;
- (iv) the Respondent is not commonly known by the disputed domain name; and

- (v) the Respondent has not used, nor prepared to use, the disputed domain name in connection with a *bona fide* offering of goods or services, being the disputed domain name used by the Respondent to direct to a website displaying PPC advertisements to French competitors of the Complainant.

Furthermore, the Complainant submits that the Respondent both registered and is using the disputed domain name in bad faith in accordance with Paragraph 4(a)(iii) of the Policy, having clearly registered the disputed domain name to target the Complainant's trademark intentionally, unduly profiting from the PPC advertisements to French competitors of the Complainant available at the website that resolves from the disputed domain name. In addition to that, the Respondent appears to be a serial cybersquatter having been named Respondent in at least 163 other UDRP proceedings, holding over 141,000 domain names. The Complainant thus contends that being the Respondent a professional domain name registrant, it ought to be the Respondent's duty to check trademark databases to avoid the registration of abusive domain names so as not to take advantage of existing trademarks to generate undue income. Lastly, the Complainant notes that one mail exchange ("MX") record has been activated for the disputed domain name, thereby enabling emails to be sent and received using the disputed domain name what could indicate potential misuses and risks to the Complainant's trademark.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

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

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

### **A. Identical or Confusingly Similar**

The Complainant has established its rights in the registered LAFORET trademark.

The Panel finds that the disputed domain name incorporates the Complainant's trademark in its entirety. The addition of a hyphen not preventing a finding of confusing similarity. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

The first element of the Policy has therefore been established.

## B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that indicate a respondent's rights to or legitimate interests in a disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's 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) the Respondent, as an individual, business, or other organization, has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondent is 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 trademark or service mark at issue.

The Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

In that sense, and according to the evidence submitted, the Complainant has made a *prima facie* case against the Respondent that the Respondent has not been commonly known by the disputed domain name, and neither has received any license from the Complainant to register or use domain names featuring the LAFORET trademark.

In addition to that, the lack of any good faith use of the disputed domain name which is being used in connection with PPC links available at the parked webpage that resolves from the disputed domain name, does not characterize an evidence of the Respondent's 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. [WIPO Overview 3.0](#), section 2.9.

Also, the absence of any indication that the Respondent has rights in a term corresponding to the disputed domain name, or any possible link between the Respondent and the disputed domain name that could be inferred from the details known of the Respondent or the webpage relating to the disputed domain name, corroborate with the Panel's finding of the absence of rights or legitimate interests. While the Panel notes that "la forêt" are French terms for "the forest", there is no evidence that the Respondent chose those terms due to its significance as dictionary terms in French. Absence any evidence on the contrary, the fact that the Respondent chose such composition for the registration and have used it for a website with PPC links related to the Complainant's business (and to competitors) shows Respondent's intention of registering this disputed domain name for its significance as a trademark of the Complainant.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

The second element of the Policy has therefore been established.

## C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b) that bad faith registration and use can be found in view of:

- (i) circumstances indicating that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring it to the complainants who are the owner of a trademark relating to the disputed domain name or to a competitor of the Complainants, for

valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name; or

- (ii) the Respondent has 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 the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other location, by creating a likelihood of confusion with the complainants' 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 registration and use of the disputed domain name in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name, not having submitted a response;
- (ii) the use of the disputed domain name in connection with a parked webpage displaying PPC links to Complainant's competitors;
- (iii) the well-known status of the Complainant's trademark
- (iv) the nature of the disputed domain name (reproducing the entirety of the Complainant's trademark albeit with an added hyphen), and the Respondent's likely intention to unduly profit from the value of the Complainant's trademark noting the Respondent's use, suggest that Respondent's registration and holding of the disputed domain name is in bad faith;
- (v) the indication of what appears to be false contact details, not having the Center been capable of delivering the written notice to the Respondent; and
- (vi) the fact that the Respondent appears to be a serial cybersquatter having been found in bad faith in more than 150 prior UDPR proceedings.

In addition, the Panel notes that "a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links ipso facto vest the respondent with rights or legitimate interests). Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith". [WIPO Overview 3.0](#), section 3.5.

For the reasons stated above, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The third element of the Policy has therefore been established.

## 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 <la-foret.info> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: March 9, 2023