

ADMINISTRATIVE PANEL DECISION

C.C.V. Beaumanoir v. Domain Sales - (Expired domain caught by auction winner) c/o Dynadot

Case No. D2023-0733

1. The Parties

The Complainant is C.C.V. Beaumanoir, France, represented by Inlex IP Expertise, France.

The Respondent is Domain Sales - (Expired domain caught by auction winner) c/o Dynadot, United States of America.

2. The Domain Name and Registrar

The disputed domain name <morgandevous.com> (the “Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 17, 2023. On February 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 21, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 February 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 16, 2023.

The Center appointed Ian Lowe as the sole panelist in this matter on March 21, 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 Group company is based in St. Malo, France, engaged in the design and sale of a range of fashion clothing under a number of brands, including MORGAN. Morgan was founded in 1987, and now has 174 stores in France and 300 worldwide. When it opened its first store in 1988, Morgan also adopted the slogan “Morgan de toi”, a reference to the French expression “morgane de toi” meaning “in love of you” in English.

The Complainant is the owner of a number of registered trademarks comprising MORGAN including France trademark number 1441890 MORGAN registered on May 27, 1988, France trademark number 1525682 MORGAN DE TOI registered on October 6, 1989, and International trademark number 549748 MORGAN registered on January 29, 1990. The Complainant also operates a website at “www.morgandetoi.fr”, to which the domain name <morgandetoi.com> points.

On January 17, 2023, the Complainant applied to register MORGAN DE VOUS as a European Union trademark.

The Domain Name was registered on January 17, 2023. It resolves to a holding page offering the Domain Name for sale for USD 4,995.

5. Identity of Respondent

This case raises once again the question as to exactly who is the registrant of the Domain Name and the Respondent to this Complaint. As verified by the Registrar, the Respondent name has the appearance of neither a person nor a corporate entity and gives no indication of a real underlying registrant.

The Respondent name appears to be intended to suggest that the Domain Name has been acquired by the Respondent by auction on expiry of a previous registration of the Domain Name. However, as noted by the panel in both *NETANY S.A. v. Domain Sales - (Expired domain caught by auction winner) c/o Dynadot*, WIPO Case No. [D2022-5029](#) and *Akiem Holding v Domain Sales - (Expired domain caught by auction winner) c/o Dynadot*, WIPO Case No. [D2023-0188](#), the creation date of the domain names in both cases cast serious doubt on whether the domain name could have been acquired by the Respondent in such circumstances.

So, in this proceeding, that suggestion is in doubt since the creation date according to the Registrar’s Whois record is January 17, 2023.

The Panel also notes that the Respondent, as named, has been the unsuccessful respondent and the subject of adverse findings in a number of previous UDRP cases.

6. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its MORGAN and MORGAN DE TOI trademarks (the “Marks”), that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

7. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in the Marks, both by virtue of its trademark registrations and as a result of its widespread use of the Marks over a number of years. Ignoring the generic Top-Level Domain “.com”, the Domain Name comprises the entirety of the Complainant’s MORGAN trademark together with the term “devous”, and is identical to its MORGAN DE TOI trademark save for the substitution of the French language word “vous” (meaning “you”) for the French language word “toi” (also meaning “you”). In the view of the Panel, these minor differences do not prevent a finding of confusing similarity between the Domain Name and the Marks. Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Domain Name is not being used for an active website but resolves to a webpage offering the Domain Name for sale. The Domain Name was registered on the same day that the Complainant applied to register MORGAN DE VOUS as a European Union trademark. In light of the obvious association between the Domain Name and the Complainant’s MORGAN DE TOI mark, the inference is that the Respondent registered the Domain Name with a view to selling the Domain Name to the Complainant or a competitor at a price significantly in excess of the Respondent’s out-of-pocket expenses in relation to the Domain Name. Alternatively, it was registered with a view to deceiving Internet users into believing that it had been registered by or operated on behalf of the Complainant.

The Respondent has chosen not to respond to the Complaint to explain its registration or use of the Domain Name, or to take any other steps to counter the *prima facie* case established by the Complainant or the inferences noted above. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In light of the nature of the Domain Name (identical to the Complainant’s recent trademark application) and the timing of its registration (the same day as the trademark application), the Panel considers that the Respondent must have had the Complainant and its rights in the Marks in mind when it registered the Domain Name. As set out above, the obvious inference is that the Respondent registered the Domain Name for commercial gain with a view to selling the Domain Name to the Complainant or a competitor; alternatively, that it did so with a view to taking unfair advantage of the Complainant’s rights in the Marks and confusing Internet users into believing that the Domain Name was being operated by or authorized by the Complainant.

The Panel also notes that in WIPO Case No. [D2023-0188](#) the disputed domain name was also registered by the same respondent on the same day that the complainant filed a trademark application in France for its highly distinctive trademark. The Panel therefore further finds that the Respondent has 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 and has engaged in a pattern of such conduct (paragraph 4(b)(ii) of the Policy).

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith.

8. 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, <morgandevous.com>, be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: April 4, 2023