

ADMINISTRATIVE PANEL DECISION

Louis Dreyfus Trademarks B.V. v. Name Redacted Case No. D2023-1558

1. The Parties

The Complainant is Louis Dreyfus Trademarks B.V., Netherlands, represented by INLEXMEA, Mauritius.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 9, 2023. On April 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 12, 2023, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 25, 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 April 28, 2023.

The Registrar also indicated that the language of the Registration Agreement is Russian. On April 25, 2023, the Center sent an email communication to the Parties in both Russian and English inviting the Complainant to submit satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceeding should be in English; or submit the Complaint translated into Russian; or submit a request for English to be the language of the administrative proceedings. The Respondent was also invited

¹ The Respondent appears to have used the name and the address of the third party when registering the 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 Domain Name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as a part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case.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 *Louis Dreyfus Trademarks B.V. v. Name Redacted*, WIPO Case No. [D2022-3692](#); *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

to comment on the language of the proceeding. On April 25, 2023, the Complainant requested that English be the language of the proceeding. The Respondent did not comment 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 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 in Russian and English, and the proceedings commenced on May 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2023. The Respondent did not submit any response.

On May 4, 2023, the Center received an email from the third party informing about the potential identity theft while registering the Domain Name.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on June 7, 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 is a French merchant company involved in agriculture and food processing. Currently, the Complainant is present in more than 100 countries.

The Complainant is the owner of numerous LDC. LOUIS DREYFUS COMPANY trademark registrations (the "Trademark"), including the International Trademark Registration LDC. LOUIS DREYFUS COMPANY (figurative) No. 1707155 registered on October 25, 2022.

The Complainant is also the owner of such domain names as <ldc.com>, <ldcorp.com>, or <ldcommodities.com>.

The Domain Name was registered on December 7, 2022.

The Domain Name has been used to send out emails impersonating a Complainant's employee. At the time of submitting the Complaint and as of the date of this Decision, the Domain Name has resolved to an error page.

5. Parties' Contentions

A. Complainant

The Complainant requests that the Domain Name be transferred to the Complainant. According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the Domain Name is identical or confusingly similar to the Trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Matters

A. Language of the Proceeding

The language of the Registration Agreement for the Domain Name is Russian. Paragraph 11(a) of the Rules provides that "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 Panel may also order that any documents submitted in a language other than that of the proceeding be translated.

As noted by previous UDRP panels, paragraph 11 of the Rules must be applied in accordance with the overriding requirements of paragraphs 10(b) and 10(c) of the Rules that the parties are treated equally, that each party is given a fair opportunity to present its case, and that the proceeding takes place with due expedition (see, e.g., *General Electric Company v. Edison Electric Corp. a/k/a Edison Electric Corp. General Energy, Edison GE, Edison-GE and EEEGE.COM*, WIPO Case No. [D2006-0334](#)).

The Complainant has submitted a request that the language of the proceeding be English. The Complainant notes that the Domain Name includes Latin letters. Next, the Complainant submits that the Respondent has used an address in France and French phone number while registering the Domain Name. This, according to the Complainant, shows that the Respondent has basic knowledge of English. Furthermore, the Complainant argues that the Respondent uses the Domain Name to send fraudulent emails to third parties not in Russian, but in French. Finally, the Complainant notes that the Respondent has not raised an objection that English be the language of the proceeding.

The Panel finds that substantial additional expense and delay would likely be incurred if the Complaint had to be translated into Russian. Moreover, the Panel notes that the Respondent did not comment on the language of the proceeding, even though it was notified in English and Russian regarding the language of the proceeding.

Thus, taking these circumstances into account, the Panel finds that it is appropriate to exercise its discretion and allow the proceeding to be conducted in English.

B. Identity of the Respondent

On May 4, 2023, the Center received an email from the third party informing about the potential identity theft while registering the Domain Name.

The Complainant submits that it is the second proceeding initiated by the Complainant against the Respondent. The first proceeding related to the disputed domain name <ld-distribution.com> (see *Louis Dreyfus Trademarks B.V. v. Name Redacted*, WIPO Case No. [D2022-3692](#)) which is almost identical to the Domain Name in the present proceeding. The panel in this case ordered that the disputed domain name <ld-distribution.com> be transferred to the Complainant. The panel also found that the respondent appeared to have used the name and/or contact details of the Complainant's subsidiary when registering the disputed domain name. Thus, in light of the potential identity theft, the Panel redacted the Respondent's name from its decision.

Similarly in this case, the Panel finds that there are strong premises to accept that we are facing the potential identity theft in this case. Thus, the Panel also decided to redact 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 Domain Name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as a 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 *Louis Dreyfus Trademarks B.V. v. Name Redacted*, WIPO Case No. [D2022-3692](#); *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

6.2. Substantive Matters – Three Elements

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

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

The requested remedy may only be granted if the above criteria are met.

At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2, [WIPO Overview 3.0](#).

A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See section 1.7, [WIPO Overview 3.0](#).

In the present case the Complainant holds valid LDC. LOUIS DREYFUS COMPANY trademark registrations. Given that the dominant feature of the Trademark, namely “LDC”, is recognizable in the Domain Name, the Panel concludes that the Domain Name is confusingly similar to the Trademark.

The addition of the term “-distribution” in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the Complainant's Trademark. UDRP panels have consistently held that where the relevant trademark is recognizable within the disputed 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 1.8, [WIPO Overview 3.0](#).

The Top-Level Domain (“TLD”) “.com” in the Domain Name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1, [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is confusingly similar to the Complainant's Trademark. Thus, the Complainant has proved the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element, the Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Name.

The respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made 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 prior to the dispute; or
- (ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or
- (iii) that it 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 trademark.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence in the record that the Complainant's LDC. LOUIS DREYFUS COMPANY trademark registrations predate the Respondent's registration of the Domain Name. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use the Trademark or to register the Domain Name incorporating the Trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Name in connection with a *bona fide* offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Name. On the contrary, at the time of submitting the Complaint and as of the date of this Decision, the Domain Name has resolved to an error page. The Complainant has been also informed by its business partners that the Domain Name was used for an email address to impersonate the Complainant and contact the Complainant's suppliers. Such use of the Domain Name does not confer rights or legitimate interests on the Respondent.

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Name. Thus, there is no evidence in the case file that refutes the Complainant's *prima facie* case. The Panel concludes that the Complainant has also proved the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the third element, the Complainant must prove that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1, [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or

- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the Trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's Trademark at the time of registration. This finding is supported by the content of the emails sent from the Domain Name which impersonate the Complainant and its employee. Moreover, it has been proven to the Panel's satisfaction that the Complainant's Trademark is well known and unique to the Complainant. Thus, the Respondent could not likely reasonably ignore the reputation of products and services under this trademark. In sum, the Respondent in all likelihood registered the Domain Name with the expectation of taking advantage of the reputation of the Complainant's Trademark.

Furthermore, the Complainant submitted evidence that the Domain Name has been used for an email scam. The Respondent clearly intended for the Domain Name to be confused with Complainant's Trademark, as the emails sent from the Domain Name feature the Complainant's company name, its official logo, as well as the name of the Complainant's employee. This serves as an evidence that the Respondent registered and then used the Domain Name to perpetrate an email scam or phishing scheme. The Domain Name does not appear to have been registered for any other purpose, as it resolves to an error page.

The use of a confusingly similar, deceptive domain name for an email scam has previously been found by panels to be sufficient to establish that a domain name has been registered and is being used in bad faith. See *Samsung Electronics Co., Ltd. v. Albert Daniel Carter*, WIPO Case No. [D2010-1367](#).

In addition, the Complainant has presented evidence that the Domain Name has been configured with MX records to enable sending and receiving further emails from the Domain Name. In the circumstances of this case, there appear to be no conceivable benefit to the Respondent to be gained by registration and use of the Domain Name in this way other than through bad faith activity such as phishing (*W.W. Grainger, Inc. v. WhoisGuard Protected, WhoisGuard, Inc. / Daniel Thomas*, WIPO Case No. [D2020-1740](#)).

Finally, the Respondent's use of a privacy service that concealed the registrant information in this case is a further evidence of bad faith.

For the reasons discussed above, the Panel finds that the Complainant has proved the requirements under 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 Domain Name <Idc-distribution.com> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: June 21, 2023