

ADMINISTRATIVE PANEL DECISION

UP Coop v. HOA TRAN KIM, Việt Nam m
Case No. D2023-1852

1. The Parties

The Complainant is UP Coop, France, represented by Casalonga Avocats, France.

The Respondent is HOA TRAN KIM, Việt Nam m, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <cheque-domicile-cesu.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 25, 2023. On April 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 27, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 28, 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 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 May 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 24, 2023.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on June 16, 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 company based in France. It creates payment methods and services such as vouchers, cards and mobile applications, and is particularly active in the service voucher market. The Complainant is active on an international level.

The Complainant is particularly known for its “Chèque Domicile”, which is described as a “Universal Employment Service Voucher” (in French “Chèque Emploi Service Universel” (CESU)) that allows users to benefit from simplified access to various types of personal services.

Among other registrations, the Complainant, formerly known as CHEQUE DEJEUNER and CHEQUE DEJEUNER CCR, owns the following trademark registrations:

- French trademark registration for the semi-figurative trademark CHEQUE DOMICILE & design No. 95591941, registered on October 11, 1995 in classes 16, 36, 37, 41, 42 and 44;
- French trademark registration for the semi-figurative trademark CHEQUE DOMICILE No. 3719432, registered on March 8, 2010 in classes 9, 16, 36, 37, 38, 41, 43, 44 and 45; and
- French trademark registration for CHEQUE DOMICILE UNIVERSEL No. 3342142, registered on February 18, 2005, in classes 9, 16 and 36.

The Complainant is also the owner of numerous domain names containing the terms “CHEQUE DOMICILE” and “CHEQUE DOMICILE CESU”.

The disputed domain name was registered on January 15, 2023.

At the time of filing of the Complaint, the disputed domain name resolved to a website in French and Vietnamese, purportedly offering information regarding the Complainant’s “Chèque Domicile” voucher and displaying a logo very similar to the Complainant’s trademarks, corresponding to the Complainant’s former logo.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant’s trademarks. The addition of the term “CESU” in the disputed domain name does not change the overall impression of the designation as being connected to the Complainant’s trademarks.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name, as the Respondent is not authorized by the Complainant to use the disputed domain name, and there is no indication that the Respondent is known under the disputed domain name. The Respondent has not used the disputed domain name in connection with any *bona fide* offering of goods or services, nor is the Respondent making any legitimate non commercial use of the disputed domain name.

The Complainant further contends that the disputed domain name was registered and used in bad faith, for the following reasons: (i) the Respondent registered the disputed domain name in full knowledge of the Complainant’s rights with a view to capitalizing on the goodwill and reputation associated with the Complainant’s trademarks; and (ii) the Respondent is using the disputed domain name to intentionally

misdirect Internet users searching for information about the Complainant or searching for the Complainant's authorized goods and services by creating a likelihood of confusion with the Complainant's trademarks.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent 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 domain name; and
- (iii) the domain name registered by the respondent has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name incorporates entirely the Complainant's textual component of its mark CHEQUE DOMICILE, with the adjunction of the term "CESU".

Panel assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. Such design elements may be taken into account in limited circumstances e.g., when the domain name comprises a spelled-out form of the relevant design element (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.10).

The addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) to a domain name where the relevant trademark is recognizable within the disputed domain name does not prevent a finding of confusing similarity under the first element of paragraph 4(a) of the Policy ([WIPO Overview 3.0](#), section 1.8).

In the present case, the word elements of the Complainant's trademark CHEQUE DOMICILE are clearly recognizable in the disputed domain name. The mere addition of the term "CESU" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

UDRP panels accept that a generic Top-Level Domain ("gTLD"), such as ".com", may be disregarded when assessing whether a domain name is identical or confusing similar to a trademark (see [WIPO Overview 3.0](#), section 1.11).

The Panel finds accordingly that the Complainant has successfully established the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Based on the information submitted by the Complainant, the Respondent does not appear to have rights or legitimate interests in respect of the disputed domain name, nor has the Complainant granted to the Respondent any authorization to use the disputed domain name. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

The Respondent does not appear to have operated any *bona fide* or legitimate business under the disputed domain name and is not making a noncommercial or fair use of the disputed domain name. Instead, the disputed domain name used to resolve to a website impersonating the Complainant and purportedly giving information about its products.

UDRP panels consider that where a domain name consists of a trademark plus an additional term (at the second- or top-level), such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (see section 2.5.1 of the [WIPO Overview 3.0](#)). In the present case, the disputed domain name combines a trademark of the Complainant with the term “CESU”, which corresponds to the abbreviation of the name of a product offered by the Complainant. This element contributes to suggesting affiliation with the Complainant.

Finally, the Respondent did not file a Response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b). In view of the above, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and that the Respondent’s silence corroborates such *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Complainant has satisfied the condition set out in paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Given the fact that the trademark CHEQUE DOMICILE has been widely used before the registration of the disputed domain name, and the fact that the Respondent used a logo almost identical to the Complainant’s logo, the Panel finds it unlikely that the disputed domain name was chosen independently without reference to the Complainant’s trademark. The Panel therefore accepts that the Respondent was aware of the existence of the Complainant and of its CHEQUE DOMICILE trademark at the time of the registration of the disputed domain name.

The use of the disputed domain name by the Respondent was apt to mislead Internet users into believing that the website at issue was the official website of the Complainant or sponsored by the Complainant.

By using the disputed domain name in such manner, the Respondent intentionally attempted to attract, for the purposes of commercial gain, Internet users to his or her website by creating a likelihood of confusion with the Complainant’s mark as to the source and affiliation of this website. Such behavior constitutes use in bad faith under paragraph 4(b)(iv) of the Policy.

Finally, the MX records relating to the disputed domain name suggest that it is or has been used for email communication, possibly for phishing purposes. UDRP panels have inferred a bad faith behavior from the activation of MX servers, which can be used to create email addresses for phishing purposes (see *Kingfisher Investissements v. Brico Depot, Brico Depot*, WIPO Case No. [D2020-2702](#) and *Robertet SA v. Marie Claude Holler*, WIPO Case No. [D2018-1878](#)).

For the reasons set out above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith, and that the Complainant has satisfied the condition set forth in 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 disputed domain name <cheque-domicile-cesu.com> be transferred to the Complainant.

/Anne-Virginie La Spada/

Anne-Virginie La Spada

Sole Panelist

Date: July 3, 2023