

ADMINISTRATIVE PANEL DECISION

Koninklijke Douwe Egberts B.V., Jacobs Douwe Egberts FR SAS v.
Alexander Gaba, H3M Global Ltd
Case No. D2023-2089

1. The Parties

The Complainant is Koninklijke Douwe Egberts B.V., Jacobs Douwe Egberts FR SAS, Netherlands, represented by Ploum, Netherlands.

The Respondent is Alexander Gaba, H3M Global Ltd, United Kingdom.

2. The Domain Name and Registrar

The disputed domain names <lamaisonducafe.fr> and <maison-du-cafe.com> are registered with Hostinger, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 11, 2023. On May 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 12, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 16, 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 amendment to the Complaint on May 17, 2023.

The Center verified that the Complaint together with the amendment to 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 June 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 29, 2023.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on July 4, 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 complainants in this administrative proceeding are Koninklijke Douwe Egberts B.V. a private limited liability company, organized under the laws of The Netherlands, having its registered office in Amsterdam, The Netherlands and Jacobs Douwe Egberts FR SAS a private limited liability company, organized under the laws of France, having its registered office in Paris, France. Where there is no distinction necessary, the above-mentioned complainants are hereinafter together in singular referred to as the "Complainant".

The Complainant is part of Jacobs Douwe Egberts. Jacobs Douwe Egberts was formed in 2015 by merging D.E Master Blenders, founded in 1753, and the coffee division of Mondelez International. Jacobs Douwe Egberts is part of JDE Peet's, one of the world's largest pure play coffee and tea companies, headquartered in The Netherlands. The group's coffee and tea portfolio is available in over 100 countries around the world and are sold in, *inter alia* in Europe and North America.

Jacobs Douwe Egberts is abbreviated to JDE. The JDE trademark is used as an umbrella brand in relation to the Complainant's coffee and tea portfolio. This portfolio consists of many worldwide well-known household names including (without limitation) Jacobs, Tassimo, Moccona, Senseo, L'OR, Douwe Egberts and Maison du Cafe. The latter, Maison du Café, is the relevant brand in these UDPR proceedings.

The Complainant is the proprietor of many word and figurative trademark registrations around the world in relation to "Maison du Café". In that respect, the Complainant is the proprietor of, amongst others, the following trademark registrations:

- International Trademark Registration No. 602733 MAISON DU CAFE, registered on June 23, 1993, in class 30, designating amongst others Spain, Italy, Monaco and Morocco;
- French Trademark Registration No. 1406904 MAISON DU CAFE, registered on May 6, 1987, in class 30;
- French Trademark Registration No. 96610942 MAISON DU CAFE, registered on February 15, 1996, in classes 5, 29 and 32.

The Complainant is amongst others the proprietor of the website "www.maisonducafe.com".

The disputed domain name <lamaisonducafe.fr> was registered on April 13, 2023, and the disputed domain name <maison-du-café.com> was registered on April 7, 2023; the disputed domain names used to resolve to websites reproducing several trademarks of the Complainant and purportedly offering the Complainant's products at discounted prices. At the time of drafting this decision, both of them resolve to inactive websites.

5. Parties' Contentions

A. Complainant

The Complainant, in essence, claims that the disputed domain names are confusingly similar to the trademark MAISON DU CAFE in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain names, which were registered and are being used in bad faith.

The trademark MAISON DU CAFE is a well-known brand in France, the European Union and many other countries worldwide, particularly in French speaking countries.

The Respondent is unknown to the Complainant. However, the Complainant has clear evidence that the Respondent is engaged in fraudulent activities. The Respondent has over the last few weeks launched several websites on which it impersonated the Complainant in order to try and acquire personal bank account details from customers. The Complainant received many notifications on its customer service helpdesk from customers being scammed by the Respondent.

The Respondent operates the websites to which the disputed domain names resolve, *i.e.* “www.lamaisonducafeFrance.com” and “www.maison-du-cafe.com” (hereinafter the “Websites”). The Websites are identical. Screenshots of the Websites have been attached to the Complaint as Annex 7. On the Websites, various other trademarks of the Complainant are shown, such as the SENSEO trademark.

The Respondent has operated several websites containing trademarks from the Complainant. Those websites have immediately been taken down by the hosting provider as customers were being scammed. The history with the Respondent is as follows.

Firstly, the Respondent has registered the domain name <coffee-destock.com>, which resolved to a website where the SENSEO trademark was prominently shown. As seen in Annex 8 to the Complaint, screenshots of the website behind the domain name <coffee-destock.com> are provided.

On this website, Respondent had copied the contact details of the Complainant, namely the contact details of Jacobs Douwe Egberts FR SAS, which is demonstrated by the excerpt of the French Trade Register, hereby provided as Annex 9 to the Complaint. The only alteration made by the Respondent was the email address, which was: [...]@coffee-destock.com.

Based on the information on this website, customers contacted the Complainant to complain about the fact that when buying the products as shown on “www.coffeedestock.com”, the credit card details of the customers were stolen and the products were not delivered to the customers. Customers were under the impression that the Complainant had something to do with this scam, however, the Complainant was never involved in these kind of practices.

The Complainant sent a legal letter to Respondent via email and received a message from the email-provider that the email could not be delivered to [...]@coffee-destock.com.

As the Complainant could not get in touch with the Respondent, the Complainant contacted the Registrar to take down the website “www.coffee-destock.com”. After some reminders the Registrar took down the website “www.coffee-destock.com”.

As a result, a new but identical website was online. The domain name of the new website was “www.destockage-cafe.com”. Thus, an identical website was created and the same email address was shown in the contact details, screenshots of the website behind “www.destockage-cafe.com” are provided as Annex 13 to the Complaint. After contacting the Registrar again regarding the use on this website, the Registrar took down the website behind the domain name <destockage-cafe.com>. The Complainant contended that the Registrar was also convinced that the Respondent is engaged in fraudulent activities, as both websites have been taken down immediately.

After the website “www.destockage-cafe.com” was taken down, a new website with the disputed domain name <lamaisonducafeFrance.com> appeared online. This website is identical to the websites previously taken down by the Registrar. Again, several brands of the Complainant are shown, including the SENSEO trademark, as well as the contact details of the Complainant. After the Complainant immediately requested the Registrar to take down the Website again, the Registrar took down the Website.

Moreover, the Complainant ascertained that, after the website behind the disputed domain name <lamaisonducafeFrance.com> was taken down, a new website appeared online.

Again, the lay-out of the new website was identical to the previous websites. This time, the disputed domain name <maison-du-cafe.com> was used. The Complainant again immediately acted to take down this website.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain names be transferred to the Complainant

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain names, the Complainant must prove each of the following, namely that:

- (i) the disputed domain names are identical or confusingly similar with 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 names; and
- (iii) the disputed domain names were registered and are being used in bad faith.

A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain names are confusingly similar to the Complainant's MAISON DU CAFE trademarks.

The disputed domain name <lamaisonducafeFrance.com> incorporates the Complainant's trademark MAISON DU CAFE in its entirety, with the addition of the terms "la" and "France", which do not prevent a finding of confusing similarity.

Section 1.8 of [WIPO Overview 3.0](#) provides that when the relevant trademark is recognizable within the disputed domain name - as it occurs in this case - the addition of other terms would not prevent a finding of confusing similarity under the first element.

In turn, the disputed domain name <maison-du-cafe.com> also includes the MAISON DU CAFE trademark in its entirety, with the mere addition of two hyphens which certainly do not prevent a finding of confusing similarity.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain names are confusingly similar to the trademark MAISON DU CAFE in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it 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 has been commonly known by the domain name, even if it has acquired no trademark 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.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain names, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain names.

As established in section 2.5 of [WIPO Overview 3.0](#): "Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry". Here, the nature of the disputed domain names carries a risk of implied affiliation.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain names.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names and that the requirements of 4(a)(ii) of the Policy are fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark MAISON DU CAFE mentioned in section 4 above (Factual Background) when it registered the disputed domain names on April 7 and 13, 2023. By that time, the Complainant had long ago registered and intensely used the trademark MAISON DU CAFE.

By registering the disputed domain names that include the Complainant's trademark MAISON DU CAFE in its entirety the Respondent was targeting the Complainant and its business. Furthermore, this is tantamount to "cybersquatting" with the intention to capitalize on the fame of the Complainant's trademark for its own benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no explanation for the Respondent's choice of the disputed domain names, the nature of the disputed domain names comprising the Complainant's trademark MAISON DU CAFE in its entirety with terms related to the Complainant's business and location, and, last but not least, the evidence produced by the Complainant to prove the content of the websites at which the disputed domain names resolved and which, affirms that the Respondent had targeted the Complainant, the concealment of the Respondent's identity using a privacy service, and the Respondent's default are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). In addition, the current non-use of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 of the [WIPO Overview 3.0](#)). The Panel finds that the Respondent registered and is using the disputed domain names in bad faith.

For the above reasons, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

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 names <lamaisonducafeFrance.com> and <maison-du-cafe.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: July 17, 2023