

ADMINISTRATIVE PANEL DECISION

Celeste Productions v. Kamran Mohsin

Case No. D2023-2838

1. The Parties

The Complainant is Celeste Productions, France, represented by NEXT Avocats, France.

The Respondent is Kamran Mohsin, Canada.

2. The Domain Name and Registrar

The disputed domain name <lesgrandesvoix.com> (“Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 3, 2023. On July 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 4, 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 (Redacted for Privacy / Privacy service provided by Withheld for Privacy ehf”) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 5, 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 July 10, 2023. In response to a notification by the Center that an annex was missing, the Complainant filed a missing annex on July 21, 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 July 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2023. On August 2, 2023, a third party sent an email communication to the Center indicating that it had received the Center’s written notice of Complaint but it has no affiliation with the Respondent nor any knowledge of the matter.

The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 22, 2023.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on September 5, 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 Société par actions simplifiée incorporated under French law. The Complainant carries out the activity of live show producers and uses the mark LES GRANDES VOIX in the course of its business.

The relevant trademark registration is French Trademark Registration No. 4816310 for the semi-figurative mark registered on November 10, 2021 in Class 41 ("Complainant's Trademark").

The textual component of the Complainant's Trademark is fully incorporated in the Complainant's domain name <lesgrandesvoix.fr> (the "Complainant's Domain Name"), which the Complainant registered on February 20, 2006 and which resolves to the Complainant's website. The Complainant's employees also use the extension "@lesgrandesvoix.fr" in their professional email addresses.

The Disputed Domain Name was registered on January 6, 2023. As of the date of this Decision, the Disputed Domain Name currently resolves to an inactive webpage which displays a message stating the Disputed Domain Name "refused to connect". The Complainant has provided evidence that the email address "[...]@lesgrandesvoix.com" was used to impersonate the Complainant's employees and partners and send a phishing email to one of the Complainant's clients for payment which resulted in the actual payment of EUR 190 000.

5. Parties' Contentions

A. Complainant

The Complainant's primary contentions can be summarized as follows:

- (a) The Disputed Domain Name is confusingly similar to the Complainant's Trademark. The textual component of the Complainant's Trademark is reproduced in its entirety. The only difference between the Disputed Domain Name and the Complainant's Trademark is the generic Top Level Domain ("gTLD").
- (b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has not obtained any authorization from the Complainant to use the Complainant's Trademark as part of a domain name or otherwise. The Disputed Domain Name is being held passively and appears to be registered by the Respondent for the sole purpose of defrauding the Complainant's clients, which does not constitute legitimate or fair use of the Disputed Domain Name.
- (c) Both the Respondent's registration and use of the Disputed Domain Name establish the Respondent's bad faith. The Respondent used the Disputed Domain Name to perpetrate a fraudulent phishing scheme against the Complainant's clients. Given the Disputed Domain Name was registered four days before the Respondent sent the phishing email, the Disputed Domain Name was evidently registered in order to conduct fraudulent activities.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark, based on its trademark registration as listed in Section 4.

The Disputed Domain Name incorporates the textual components of the Complainant's Trademark in its entirety. To the extent that design elements would be incapable of representation in domain names, these elements are largely disregarded for the purposes of assessing identity or confusing similarity under the first element. See section 1.10 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The Panel does not consider the figurative element of the Complainant's Trademark to overtake the textual element, which has been reproduced in the Disputed Domain Name.

Further, it is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the gTLD, ".com" in this case, may be disregarded. See section 1.11.1 of the [WIPO Overview 3.0](#).

UDRP panels have consistently found that a domain name that wholly incorporates a complainant's trademark is identical or confusingly similar to the complainant's trademark (see *Société Air France v. Indra Armansyah*, WIPO Case No. [D2016-2027](#); and *Icebug AB v. Domain Administrator*, WIPO Case No. [D2013-1823](#)).

As such, the Panel finds that the Disputed Domain Name is identical to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Panel accepts that the Complainant has not authorized the Respondent to use the Complainant's Trademark. There is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name.

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the disputed domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent did not submit a Response. The fact that the Respondent did not submit a Response does not automatically result in a decision in favor of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) Before any notice to him 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 has been commonly known by the Disputed Domain Name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) The Respondent is making a legitimate non-commercial 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 Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become commonly known by the Disputed Domain Name.

There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name, is in connection with a *bona fide* offering of goods or services or can be regarded as legitimate noncommercial or fair use. The Respondent would likely not have adopted the Complainant's Trademark if not to create an impression that the Disputed Domain Name or any communication using the Disputed Domain Name is associated with or originates from the Complainant or otherwise take unfair advantage of the goodwill in the Complainant's Trademark. In this regard, the composition of the Disputed Domain Name carries a high risk of implied affiliation and the use of the Disputed Domain Name to impersonate the Complainant for fraudulent purposes cannot support a finding of rights or legitimate interests. See [WIPO Overview 3.0](#), sections 2.5.1 and 2.13.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity can already in itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

After reviewing the supporting evidence submitted by the Complainant, the Panel finds that the Complainant's Trademark appears to be well known. A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "les grandes voix" relate to the Complainant's services and/or third party websites providing information relating to the Complainant's services. Therefore, the Panel agrees with the Complainant that the Respondent must have been aware of the Complainant and its rights in the Complainant's Trademark when registering and using the Disputed Domain Name.

In addition, the Panel finds that the following factors support a finding that the Disputed Domain Name was registered and has been used by the Respondent in bad faith:

- (i) The Respondent has used email addresses associated with the Disputed Domain Name to impersonate the Complainant's employees and partners and send a phishing email to the Complainant's client to deceive the client into making a fraudulent payment;
- (ii) Even putting aside the phishing email, the Disputed Domain Name solely incorporates the textual element of the Complainant's Trademark and is identical to the Complainant's Domain Name save for the gTLD. Also, as discussed above, the Respondent lacks any rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)); and
- (iii) The Respondent failed to respond to the Complainant's contentions and has provided inaccurate postal address in the registration details of the Disputed Domain Name.

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, <lesgrandesvoix.com>, be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: September 14, 2023