

ADMINISTRATIVE PANEL DECISION

Societe Editrice Du Monde v. Yanis Fardogis
Case No. D2023-4609

1. The Parties

The Complainant is Societe Editrice Du Monde, France, represented by Nameshield, France.

The Respondent is Yanis Fardogis, Latvia.

2. The Domain Name and Registrar

The disputed domain name <lemmonde.com> is registered with Nicenic International Group Co., Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 7, 2023. On November 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 13, 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 (Anonymous) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 13, 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 the same day.

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 November 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 6, 2023.

The Center appointed Theda König Horowicz as the sole panelist in this matter on January 10, 2024. 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 (“Le Monde”) is a French daily newspaper. It is the main publication of Le Monde Group and reported an average circulation of 470,000 copies per issue in 2022, about 40,000 of which were sold abroad.

The Complainant owns several trademarks including the terms “LE MONDE”, such as:

- International trademark LE MONDE n° 574503 registered of August 8, 1991
- International trademark LE MONDE n° 574502 registered on August 8, 1991.

The Complainant is also the owner of many domain names which include the trademark LE MONDE such as <lemonde.fr> registered since August 2, 2005.

The disputed domain name was registered on October 22, 2023, and initially resolved to a page displaying a “404 Not found”. However, the disputed domain name used to resolve to a website which displayed fake news and reproduced the Complainant’s logo. At the time of this decision, it resolves to an inactive page.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name <lemmonde.com> is confusingly similar to its trademark LE MONDE and its domain names associated. The obvious misspelling of the Complainant’s trademark LE MONDE (i.e. the addition of the letter “m”) is characteristic of a typo squatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name. The addition of the gTLD “.com” does not change the overall impression of the designation as being connected to the Complainant’s trademark.

Furthermore, the Complainant contends that the Respondent has no legitimate interests or rights in the disputed domain name. More specifically, he is not commonly known by the disputed domain name. The Respondent is also not affiliated with nor authorized by the Complainant in any way. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademarks LE MONDE, or to apply for registration of the disputed domain name by the Complainant. The disputed domain name was used to generate many URL to display fake news by reproducing the Complainant’s logo. Such use does not constitute a legitimate interest in respect of the disputed domain name.

Finally, the Complainant contends that its LE MONDE trademark is well-known. Given the distinctiveness of the Complainant’s trademarks and its reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant’s trademark. The misspelling of the trademark LE MONDE was intentionally designed to be confusingly similar with the Complainant’s trademark which is an evidence of bad faith use in accordance with the Policy. Furthermore, the Complainant claims that the disputed domain name reproduces the Complainant’s logo in order to offer crypto services. The Complainant contends the Respondent has attempt to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademarks for its own commercial gain, which is an evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that 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) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of the mark LE MONDE for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name with the single difference of the inclusion of an additional letter "m" in the middle: "lemmonde" instead of "lemonde". The Complainant's mark LE MONDE remains nevertheless clearly recognizable in the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7. and 1.9.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The case file shows that the disputed domain name used to resolve to a website reproducing the Complainant's LE MONDE trademark and logo, and offering crypto services. The overall impression for the public was confusing, as it gave the impression of being on an official website of the Complainant, which was not the case. Furthermore, the Complainant alleges that information provided on the said websites was actually fake news, an allegation which has not been rebutted by the Respondent.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has registered and used the disputed domain name in bad faith.

First of all, the Complainant's trademark LE MONDE has been registered for decades and is being widely used by the Complainant for a well-known newspaper in France and on Internet. Furthermore, the disputed domain name used to resolve to a website reproducing the Complainant's LE MONDE trademark and logo, and offering crypto services. It is therefore inconceivable to the Panel that the Respondent did not know the Complainant's LE MONDE trademark when registering the disputed domain name.

The use made of the disputed domain name as described above (impersonation/passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The current use of the disputed domain name (i.e. resolving to an inactive website) does prevent a finding of bad faith under the passive holding doctrine. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <lemmonde.com> be transferred to the Complainant.

/Theda König Horowicz/

Theda König Horowicz

Sole Panelist

Date: February 5, 2024