

ADMINISTRATIVE PANEL DECISION

Groupe Nocibe v. he huanghui, Leire Alcala
Case No. D2023-5016

1. The Parties

The Complainant is Groupe Nocibe, France, represented by SCP Deprez, Guignot et Associés, France.

The Respondents are he huanghui, United States of America (“United States”), and Leire Alcala, United States.

2. The Domain Names and Registrar

The disputed domain names <nocibeoutlets.shop>, <nocibesale.shop>, <nocibes.shop> are registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2023. On December 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 4, 2023, the Complainant requested the inclusion of two additional domain names. On December 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the additional disputed domain names. On December 6, 2023 and December 13, 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 Respondents (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 14, 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 December 18, 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 Respondents of the Complaint, and the proceedings commenced on December 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on January 17, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on January 23, 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 following facts are undisputed.

The Complainant's a French perfume and cosmetics retailer. Founded in Lille in 1984 by Daniel Vercamer, it became a subsidiary of the German Douglas Holding group in 2014. It has active in the European selective perfume market and has 15 million customers in stores and over 60 million visitors to its website. It has over 600 brands and 30,000 SKUs.

The Complainant's website accessible through its domain name <nocibe.fr>, offers access to all the major brands distributed by the Complainant.

The Complainant owns, several trademarks registrations including the word "NOCIBE" in several territories, including the international registration consisting of the word mark NOCIBE, with registration number 682885, with a registration date of October 24, 1997, designating Benelux, Switzerland, Austria, Germany, Italy, Poland, Portugal, Spain, for goods in classes 3 and 42.

The disputed domain names <nocibeoutlets.shop>, <nocibesale.shop>, <nocibes.shop>, were registered on respectively on November 24, November 24 and November 27, 2023. All disputed domain names currently resolve to a similar website with the text "n***R" and "the website is under construction". Before, during the month of November 2023, the disputes domain names all resolved to websites (the "Websites") that were identical to the Complainant's official website <nocibe.fr>.

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 names.

Notably, the Complainant contends that during the month of November 2023, the Complainant was informed by several of its customers and some of its selective suppliers that sponsored advertisements on social networks linked to the Websites that offered the Complainant's products for sale at very attractive prices. The Complainant's customer service department received a number of messages from its customers concerning orders that had not been received and that they were unable to trace.

There is clearly no bona fide offering of goods or services and panels have found that there can be no right or legitimate interest in the sale of counterfeit products or in the use by the Respondents of the disputed domain names for commercial purposes with the intent to mislead by defrauding the Complainant's customers. The Websites clearly mimic the Complainant's official website.

The fraudulent nature of the Website underpins the bad faith of the named Respondents of the disputed domain names.

The Complainant requests consolidation of the proceedings in relation to the three disputes domain names as the Websites are clearly operated by the same person and are under common control, although the registrant details for the disputed domain name <nocibes.shop> differs from those for the other two disputed domain names. Not only are the Websites to which the disputed domain names identical, all disputed domain names are registered within a short period of time, i.e. three days.

B. Respondents

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

6. Discussion and Findings

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the Websites to which the disputed domain names resolve are identical and the disputed domain names are all registered within a period of three days.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

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 names. 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 a trademark or service mark 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 names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "outlets", "sale" and the letter "s", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 names. 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 names such as those enumerated in the Policy or otherwise.

To the contrary, the Respondent is clearly intending to defraud the Complainant's customers by operating the Websites which mimic the Complainant's official website.

Panels have held that the use of a domain name for illegal activity as referred to above and impersonating the Complainant, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

C. Registered and Used in Bad Faith

The Panel refers to its consideration under 6.B.

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 clearly attempted to impersonate the Complainant and its official website. As such the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

Panels have held that the use of a domain name for illegal activity as described above, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names 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 names <nocibeoutlets.shop>, <nocibesale.shop> and <nocibes.shop> be transferred to the Complainant.

/Willem J. H. Leppink/
Willem J. H. Leppink
Sole Panelist
Date: January 31, 2024