

ADMINISTRATIVE PANEL DECISION

Ludendo SAS and Epse Joueclub Entente des Professionnels Specialistes de L'enfant v. weng yongjie
Case No. D2024-0120

1. The Parties

Complainants are LUDENDO SAS, France, and Epse Joueclub Entente des Professionnels Specialistes de L'enfant, France, represented by Novagraaf France, France.

Respondent is weng yongjie, China.

2. The Domain Name and Registrar

The disputed domain name <lagranderecre-fr.shop> (the "Domain Name") is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 12, 2024. On January 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 19, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name which differed from the named Respondent (anonymous) and contact information in the Complaint. The Center sent an email communication to Complainant on January 22, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on the same date.

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 Respondent of the Complaint, and the proceedings commenced on January 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on February 15, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on February 27, 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

Complainants are active in the field of sale of toys with more than 112 shops in France and other countries. Complainants are well known in France for toy shops. Since June 2023, the Complainant Epse Joueclub Entente des Professionnels Spécialistes de L'enfant is the new owner of the Complainant Ludendo SAS and of the trademarks LA GRANDE RÉCRÉ, and therefore they will be collectively referred to as "Complainant".

Complainant is the owner of trademark registrations for LA GRANDE RÉCRÉ including:

- International trademark registration No. 1103832 LA GRANDE RÉCRÉ (word), registered on November 14, 2011 for goods and services in international classes 9, 12, 16, 25, 28, 35, and 41; and
- International trademark registration No. 778737 LA GRANDE RÉCRÉ (figurative), registered on December 19, 2001 for goods and services in international classes 28, 35, and 41.

Complainant also owns domain name registrations containing the mark LA GRANDE RÉCRÉ, including the domain name <lagranderecre.fr> registered on December 29, 1999, the domain name <la-grande-recre.com> registered on December 29, 1999, the domain name <lagranderecre.com> registered on December 28, 1999, and the domain name <lagranderecre.net> registered on July 7, 2014.

The Domain Name was registered on January 6, 2024 and at the time of filing of the Complaint led to a website mimicking and copying the contents from Complainant's website at "www.lagranderecre.fr" dated December 15, 2023, and selling toys at discounted prices (the "Website"). It currently leads to an inactive webpage.

5. Parties' Contentions

A. Complainant

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

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered or is being used in bad faith.

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 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.

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 Domain Name. Accordingly, the Domain Name is 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, the letters "fr", a country code for France, and a hyphen, 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 Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain ("gTLD") ".shop" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#), see also [WIPO Overview 3.0](#), section 1.11.1).

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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Moreover, the composition of the Domain Name incorporating Complainant's trademark and the term "fr" which is a country code for France where Complainant has its business, carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. Because Complainant's marks had been used and registered prior to the Domain Name registration by Respondent, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name. Furthermore, the Domain Name incorporates in whole Complainant's mark plus the additional element "fr", short for France, which is where Complainant is well known, and the hyphen, therefore creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Domain Name. The Website's content, mimicking the website of Complainant at "www.lagranderecre.fr", further supports knowledge of Complainant and its field of activity.

As regards bad faith use of the Domain Name, Complainant has demonstrated that the Domain Name was used to resolve to the Website, mimicking the website of Complainant at "www.lagranderecre.fr", thereby giving the false impression that it was operated by Complainant. The Domain Name operated therefore by intentionally creating a likelihood of confusion with Complainant's trademark and business as to the source, sponsorship, affiliation or endorsement of the Website, for commercial gain. This supports the finding of bad faith use ([WIPO Overview 3.0](#), section 3.1.4).

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity, in this case, claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

Furthermore, regarding the current non-use of the Domain Name, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding.

The Panel finds that 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 <lagranderecre-fr.shop> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: March 12, 2024