

## **ADMINISTRATIVE PANEL DECISION**

Ludendo SAS and Epse Joueclub Entente des Professionnels Specialistes de L'enfant v. rf fw, Colin Derby  
Case No. D2024-0134

### **1. The Parties**

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

Respondents are rf fw, France, and Colin Derby, China.

### **2. The Domain Names and Registrar**

The disputed domain names <lagranderecrefr.shop> and <lagranderecre-outlet.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 January 12, 2024. On January 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 17, 2024, 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 ("anonymous") and contact information in the Complaint. The Center sent an email communication to Complainants on January 18, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting Complainants to either file separate complaint(s) for the disputed domain name associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that the disputed domain names are under common control. Complainants filed an amended Complaint on January 22, 2024.

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 Respondents 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. Respondents did not submit any response. Accordingly, the Center notified Respondents' default on February 14, 2024.

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

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 Specialistes de L'enfant is the new owner of the Complainant Ludendo SAS and of the trademark registrations for 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 first disputed domain name <lagranderecrefr.shop> was registered on December 26, 2023 and the second disputed domain name <lagranderecre-outlet.shop> was registered on January 10, 2024. At the time of filing of the Complaint the disputed domain names lead to identical websites mimicking and copying the contents from Complainant's website at "www.lagranderecre.fr" dated December 15, 2023, and selling toys at discounted prices (the "Websites"). They both currently lead to inactive webpages.

#### **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 names.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

#### **6. Discussion and Findings**

##### **Consolidation: Multiple Respondents**

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

The underlying registrants did not comment on 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 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 disputed domain names lead to identical Websites;
- the disputed domain names were registered within a short period of time (December 26, 2023 and January 10, 2024);
- the disputed domain names were registered with the same Registrar and hosted by the same hosting provider;
- the disputed domain names follow the same pattern, namely they include the trademark of Complainant plus a term related to Complainant's business or location plus the generic Top-Level Domain ("gTLD") ".shop".

Furthermore, the underlying registrants' contact details appear to be false. The postal address of the registrant of the first disputed domain name <lagranderecrefr.shop> in China does not appear to exist according to a Google map search effected by Complainant. The registrant name of the second disputed domain name <lagranderecre-outlet.shop> is randomly typed letters and the address is incomplete.

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 "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 Complainant's trademark and the disputed domain names. [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 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, "fr", "outlet", 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 disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The gTLD ".shop" is also disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons only (see *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](#)).

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 disputed domain names. 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 disputed domain names 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 disputed domain names incorporating Complainant’s trademark with the term “fr”, a country code for France where Complainant has its business, or a term “outlet” which may refer to a place offering Complainant’s products for sale at discounted prices, 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 disputed domain names in bad faith. Because Complainant’s mark had been used and registered prior to the disputed domain name registrations by Respondent, the Panel finds it more likely than not that Respondent had Complainant’s mark in mind when registering the disputed domain names. Furthermore, the disputed domain names incorporate in whole Complainant’s mark plus the additional term referring to Complainant’s location or a place offering Complainant’s products for sale at discounted prices, therefore creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation or endorsement of the disputed domain names. The Websites’ 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, Complainant has demonstrated that the disputed domain names were used to resolve to the Websites, mimicking the website of Complainant at “www.lagranderecre.fr”, thereby giving the false impression that they were operated by Complainant. The disputed domain names 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 Websites, 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 here, 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 disputed domain names constitutes bad faith under the Policy.

Furthermore, regarding the current non-use of the disputed domain names, 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. [WIPO Overview 3.0](#), section 3.3.

The Panel finds that the Complainants have 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 <lagranderecrefr.shop> and <lagranderecre-outlet.shop> be transferred to Complainant.

*/Marina Perraki/*

**Marina Perraki**

Sole Panelist

Date: March 8, 2024