

ADMINISTRATIVE PANEL DECISION

Alerion Avocats v. Gee Masun
Case No. D2024-0398

1. The Parties

The Complainant is Alerion Avocats, France, represented by Corinne Thierache, France.

The Respondent is Gee Masun, France.

2. The Domain Name and Registrar

The disputed domain name <alerionavocats.biz> (the “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 January 29, 2024. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 30, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 February 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 28, 2024.

The Center appointed Isabelle Leroux as the sole panelist in this matter on March 5, 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 is Alerion Avocats, a French law firm based in Paris.

For the needs and purposes of its activities, the Complainant is also the owner, amongst others of:

- French word trademark ALERION No. FR3230371, registered on June 12, 2003, subsequently renewed, in classes 35, 38 and 45;
- European Union word trademark ALERION No. 003580206, registered on December 11, 2003, subsequently renewed, in classes 35, 38 and 45; and
- European word trademark ALERION AVOCATS No. 018243291, registered on May 22, 2020, in classes 41, 42 and 45.

The Complainant also operates a website available at <alerionavocats.com> (registered on July 02, 2003) dedicated to its legal services.

The Disputed Domain Name <alerionavocats.biz> was registered on September 27, 2023, reverts to an error page (website inaccessible). The Disputed Domain Name has been used to send fraudulent emails impersonating the Complainant's lawyers and employees.

Based on the information disclosed by the Registrar, the Complainant is Gee Masun, domiciliated in Lyon (France).

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:

- (i) The Disputed Domain Name is confusingly similar to Complainant's trademarks, since it fully reproduces the Complainant's trademarks and domain name;
- (ii) The Respondent has no rights or legitimate interests in the Disputed Domain Name since the web page associated with the Disputed Domain Name is "empty" and is not subject to any legitimate use by the Respondent;
- (iii) The Respondent registered and used the Disputed Domain Name in bad faith since:
 - The Disputed Domain is not actively exploited by the Respondent;
 - The Respondent is not known under the name ALERION;
 - The Disputed Domain Name has been used by the Respondent to create email addresses impersonating the Complainant's lawyers and employees;

Consequently, the Complainant considers that these pieces of evidence leave no doubt as to the fact that the holder of the Disputed Domain Name is acting in a particularly bad faith for the sole purpose of collecting sensitive and confidential information that would have been covered by solicitor-client privilege and to obtain undue payments.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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 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 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 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 Name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

There is no evidence that the Respondent is commonly known under the Disputed Domain Name. The Respondent was not licensed nor authorized by the Complainant to use the latter's ALERION trademarks. The Disputed Domain Name resolves to an inaccessible webpage, and there is no evidence that the Respondent is using or preparing to use it for any legitimate noncommercial or fair use. According to the evidence provided in the Complaint, the Disputed Domain Name has been used to impersonate the Complainant's lawyers and employees.

Panels have held that the use of a domain name for illegal activity here, impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Further, the fact that the Respondent did not file a response is indicative that he does not have any rights or legitimate interests in the Disputed Domain Name.

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 (i) the Respondent has used the Disputed Domain Name to perpetuate a phishing scam in which it has sent emails impersonating the Complainant's lawyers and employees, notably to obtain undue payments, (ii) the Complainant's trademark registrations predate the registration date of the Disputed Domain Name by many years, (iii) the Disputed Domain Name does not currently resolve to an active legitimate website, and (iv) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by him of the Disputed Domain Name.

These circumstances indicate that the Respondent clearly knew, targeted and used the Complainant's prior trademarks in order to perpetuate a financial fraud/phishing scam. Such use cannot be considered a bona fide offering of goods or services.

Panels have held that the use of a domain name for illegal activity here, claimed phishing, impersonation/passing off, 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 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 <alerionavocats.biz> be transferred to the Complainant.

/Isabelle Leroux/

Isabelle Leroux

Sole Panelist

Date: March 19, 2024