

## **ADMINISTRATIVE PANEL DECISION**

Alain Afflelou Franchiseur v. Tung Truong, 33086406860  
Case No. D2024-0499

### **1. The Parties**

The Complainant is Alain Afflelou Franchiseur, France, represented by Novagraaf France, France.

The Respondent is Tung Truong, 33086406860, Viet Nam.

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

The disputed domain name <allelou.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 2, 2024. On February 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 2, 2024, 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 (Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 5, 2024, 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 February 8, 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 the Respondent of the Complaint, and the proceedings commenced on February 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 5, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on March 12, 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 was founded in 1972. The Complainant operates as a franchisor of optical products and services in Europe, particularly in France and Spain.

The Complainant is the owner of several trademark registrations for the word trademark AFFLELOU, e.g., the International trademark registration No. 1305969 registered on April 26, 2016, and the corresponding French trademark registration No. 4267761 registered on August 19, 2016, both for goods and services in classes 3, 5, 9, 10, 35, 36, 37, 38 and 44.

The Complainant owns the domain name <afflelou.com> which was registered on September 13, 1999.

The Complainant's trademark was registered before the disputed domain name, which was registered on April 19, 2023. The disputed domain name at the time of filing the Complaint and at the time of rendering the Decision resolved to a parked page containing pay-per-click ("PPC") links, which are unrelated to the Complainant and/or its activities.

#### **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 to the following.

The Complainant states that its trademarks and the disputed domain name both start with the letter "a" and end with the element "lelou". The only difference is between the double letter "l" in the disputed domain name and the double letter "ff" in the trademarks of the Complainant, which both have very similar shapes, namely a long vertical line. As a result, there is a risk of confusion.

Furthermore, the Complainant notes that it has not granted any authorization for the Respondent nor is the Respondent a licensee of the Complainant or affiliated to him. Besides this, the Respondent is not making any legitimate commercial or fair use of the disputed domain name.

The Complainant has sent a cease-and-desist letter to the Registrar for the Registrar and the Respondent but never received any response. There are also mail servers configured in relation to the disputed domain name and therefore it is possible that the Respondent has created an email address for the purpose of sending fraudulent emails. Furthermore, given the renown of the Complainant, the Respondent could not have been unaware of the existence of the Complainant's trademarks.

The Complainant according to an article it submitted (published in 2013), has 1,200 shops worldwide and generated a turnover of EUR 770 million.

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

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

## **6. Discussion and Findings**

### **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 Panel finds the mark is recognizable within the disputed domain name. The Complainant's marks and the disputed domain name both start with the letter "a" and end with the element "lelou". Accordingly, the disputed domain name is confusingly similar 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**

In light of its assessment under 6.C., the Panel will not discuss the second element.

### **C. Registered and Used in Bad Faith**

In order to establish the third element, the Complainant at a minimum will have to prove that the disputed domain name was registered in bad faith by the Respondent.

The question then arises whether the Respondent, who did not reply to the Complainant's contentions, had the Complainant in mind when registering the disputed domain name. A positive answer to this question could be given if under the given circumstances it is implausible that a respondent was not aware of the complainant and its trademark at the time of registration.

The evidence in the case file as presented is insufficient to come to the conclusion that the Respondent registered the disputed domain name with the Complainant and its trademark in mind and thus being in bad faith. A simple Internet search conducted by the Panel on the term "allelou" shows results unrelated to the Complainant.

The Panel acknowledges that there are, on the one hand, certain circumstances that could indicate bad faith, e.g., the failure of the Respondent to submit a response and to provide any evidence of actual or contemplated good faith use, and the Respondent's concealing its identity or use of false or incomplete contact details. On the other hand, there is no evidence submitted that email addresses connected to the disputed domain name have been used for any illegal activity or any other purpose targeting the Complainant. Also, the PPC links on the parked page do not relate to the Complainant and its activities.

Without any further convincing circumstances that would indicate bad faith, the Panel cannot find that the disputed domain name which reflects a name that could be used for bona fide purposes, was registered in bad faith.

While the Complainant has submitted some evidence to show the notoriety of the Complainant and its trademarks, the Panel finds there is not sufficient evidence of the Respondent's targeting of the Complainant.

The Panel finds the third element of the Policy has not been established.

## 7. Decision

For the foregoing reasons, the Complaint is denied.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

Sole Panelist

Date: March 22, 2024