

ADMINISTRATIVE PANEL DECISION

Stellantis Auto SAS v. Domain Administrator,
Fundacion Privacy Services LTD
Case No. D2024-1399

1. The Parties

The Complainant is Stellantis Auto SAS, France, internally represented.

The Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Name and Registrar

The disputed domain name <stellantisfinancialservices.com> (the “Disputed Domain Name”) is registered with Media Elite Holdings Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 2, 2024. On April 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On April 7, 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 April 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2024.

The Center appointed Lynda M. Braun as the sole panelist in this matter on May 14, 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 a multinational automotive manufacturing corporation with customers in over 130 markets in various jurisdictions worldwide, specifically in the United States of America (“United States”), Europe, and South America.

The Complainant owns the following trademarks, among others: STELLANTIS, United States Trademark Registration No. 6,383,073, registered on June 15, 2021, in international classes 9, 11, 12, 35, 36, 37, and 39; STELLANTIS, International Trademark Registration No. 1558730, registered on July 15, 2020, in international classes 9, 11, 12, 35, 36, 37, and 39; and STELLANTIS, European Union Trademark Registration No. 018273787, registered on January 28, 2021, in international classes 7, 9, 11, 12, 35, 36, 37 and 39 (hereinafter collectively referred to as the “STELLANTIS Mark”).

The Complainant owns the domain names <stellantis.com> and <stellantisfinancialservices.com>¹ that both resolve to its official website at “www.stellantis.com” and “www.stellantisfinancialservices.com”, which shows the locations in which the Complainant operates worldwide as well as where customers can log in to obtain information.

The Disputed Domain Name was registered on December 12, 2023. When the Center notified the Respondent of the Complaint, the Disputed Domain name initially did not resolve to any active page and the browser stated, “This site can’t be reached. stellantisfinancialservices.com took too long to respond.” At the writing of this Decision, however, the Disputed Domain Name resolves to a dangerous scam page. Thus, in both cases, the Respondent was using the Disputed Domain Name passively. In addition, the Complainant alleged that the Disputed Domain Name was registered primarily for the purpose of selling the domain name to a third party on “www.sedo.com”, although the Complainant has not submitted any evidence of such sale in its submission.

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:

- the Disputed Domain Name is confusingly similar to the STELLANTIS Mark because the Disputed Domain Name contains the STELLANTIS Mark in its entirety, followed by the term “finacial” (a misspelled version of “financial” without the second letter “n”) and the term “services”, followed by the generic Top-Level Domain (“gTLD”) “.com”, and thus does not prevent a finding of confusing similarity;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because the Complainant has not authorized the Respondent to register a domain name containing the STELLANTIS Mark, the Respondent was not making a bona fide offering of goods or services, or a legitimate noncommercial or fair use through use of the Disputed Domain Name, and the Respondent has never been commonly known by the STELLANTIS Mark or any similar name; and
- the Disputed Domain Name was registered and is being used in bad faith because, among other things, the Respondent uses typosquatting in the Disputed Domain Name and offers it for sale, and the overall circumstances of the case support a finding of bad faith use.

The Complainant seeks the cancellation of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

¹ The <stellantisfinancialservices.com> domain name is practically identical to the Disputed Domain Name save for the omission of the second letter “n” in the term “financial” in the Dispute Domain Name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the STELLANTIS Mark.

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. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

It is uncontroverted that the Complainant has established rights in the STELLANTIS Mark based on its several years of use as well as its registered trademarks for the STELLANTIS Mark in the United States and the European Union. The consensus view is that registration of a mark is prima facie evidence of validity. The Respondent has not rebutted this presumption, and therefore the Panel finds that the Complainant has rights in the STELLANTIS Mark.

The Disputed Domain Name consists of the STELLANTIS Mark in its entirety, followed by the term "finacial" (a misspelled version of "financial" by omitting the second letter "n") and the term "services". Such additions do not prevent a finding of confusing similarity to the STELLANTIS Mark. See [WIPO Overview 3.0](#), section 1.7.

Further, it is well established that a domain name that wholly incorporates a trademark, as here, may be deemed confusingly similar to that trademark for purposes of the Policy despite the addition of other terms. As stated in section 1.8 of the [WIPO Overview 3.0](#), "where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element". For example, numerous UDRP decisions have reiterated that the addition of a term to a trademark does not prevent a finding of confusing similarity. See *Allianz Global Investors of America, L.P. and Pacific Investment Management Company (PIMCO) v. Bingo-Bongo*, WIPO Case No. [D2011-0795](#); *Hoffmann-La Roche Inc. v. Wei-Chun Hsia*, WIPO Case No. [D2008-0923](#).

Finally, the addition of a gTLD such as ".com" in a domain name is a technical requirement. Thus, it is well established that, as here, such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#), and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's STELLANTIS Mark.

Based on the available record, the Panel finds that 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 a 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 that 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.

The Complainant's prima facie case includes the fact that the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its STELLANTIS Mark, that the Complainant does not have any type of business relationship with the Respondent, that there is no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, and that there is no evidence that the Respondent was using or making demonstrable preparations to use the Disputed Domain Name in connection with a bona fide offering of goods or services. See Policy, paragraph 4(c). Moreover, based on the initial use made of the Disputed Domain Name to resolve to an inactive landing page, the Panel finds that the Respondent is not making a bona fide offering of goods or services nor making a legitimate noncommercial or fair use of the Disputed Domain Name. As other UDRP panels have contended, "[p]assively holding a domain name does not constitute a bona fide offering of goods or services". *Philip Morris USA Inc. v. Gabriel Hall*, WIPO Case No. [D2015-1779](#). As regards the current use of the Disputed Domain Name to resolve to a dangerous scam page, it is clear that such illegal activity can never confer rights or legitimate interests upon the Respondent. [WIPO Overview 3.0](#), section 2.13.1.

Further, the Panel concludes that nothing on the record before it would support a finding that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name. Rather, the Panel finds that the Respondent is using the Disputed Domain Name with the intent to mislead by deceiving the Complainant's customers into incorrectly believing that they arrived at the Complainant's domain name. Such use cannot conceivably constitute a bona fide offering of a product within the meaning of paragraph 4(c)(i) of the Policy or a noncommercial or fair use of the Disputed Domain Name.

Based on the available record, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel finds that, based on the record, the Complainant has demonstrated the Respondent's bad faith registration and use of the Disputed Domain Name pursuant to paragraph 4(b) of the Policy.

First, the renown of the STELLANTIS Mark in its industry, which was used and registered by the Complainant in advance of the Respondent's registration of the Disputed Domain Name, renders it wholly implausible that the Respondent created the Disputed Domain Name independently. The Disputed Domain Name was registered several years after the Complainant first began using the STELLANTIS Mark. Therefore, the Panel finds it likely that the Respondent had the Complainant's STELLANTIS Mark in mind when registering the Disputed Domain Name, especially since the mark is recognizable despite its misspelling, demonstrating bad faith. Especially it is noted by the Panel that the Disputed Domain Name is almost identical to the Complainant's domain name <stellantisfinancialservices.com> save for the omission of the second letter "n" in the term "financial" in the Disputed Domain Name. Therefore, based on the use of the STELLANTIS Mark in various jurisdictions worldwide, it strains credulity to believe that the Respondent had not known of the Complainant or its trademark when registering the Disputed Domain Name. In sum, UDRP panels have found that the registration of a disputed domain name that is confusingly similar to a well-known trademark (particularly domain names comprising typos) by an unaffiliated entity can create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Second, based on the circumstances here, the Panel concludes that the Respondent's registration and use of the Disputed Domain Name had been done for the specific purpose of trading on the name and reputation of the Complainant and its STELLANTIS Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#) (“[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain”).

Third, inactive or passive holding of the Disputed Domain Name by the Respondent does not prevent a finding of bad faith. See *Advance Magazine Publishers Inc. and Les Publications Condé Nast S.A. v. ChinaVogue.com*, WIPO Case No. [D2005-0615](#); *Société pour l'Oeuvre et la Mémoire d'Antoine de Saint Exupéry – Succession Saint Exupéry – D'Agay v. Perlegos Properties*, WIPO Case No. [D2005-1085](#). It has long been held in UDRP decisions that the passive holding of a disputed domain name that incorporates a well-known or distinctive trademark without a legitimate purpose does not prevent a finding that the disputed domain name is being used in bad faith under paragraph 4(a)(iii) of the Policy. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Jupiters Limited v. Aaron Hall*, WIPO Case No. [D2000-0574](#). Specifically, UDRP panels have frequently found that the lack of active use of a disputed domain name (i.e., passive holding) does not prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3.

From the inception of the UDRP, panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark; (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use; (iii) the respondent's concealment of its identity or use of false contact details (noted to be in breach of its registration agreement); and (iv) the implausibility of any good faith use to which the disputed domain name may be put.

Based on the above, the Panel has taken into consideration the following factors in arriving at a finding of bad faith registration and use under the passive holding doctrine: (i) the Complainant's trademark is well-known; (ii) the Respondent has registered a nearly indistinguishable typographical variation of the Complainant's domain name that is thus inherently misleading; (iii) the Respondent appears to have taken pains to conceal its identity by providing false or incomplete contact details (the courier service was not able to deliver the Written Notice); and (iv) the Respondent has not submitted a response in the proceeding. The Panel therefore finds that the Disputed Domain Name is being passively held, which does not prevent a finding of bad faith. Given that the Disputed Domain Name now resolves to a dangerous scam website, with such use being per se evidence of bad faith registration and use, it is clear that the Respondent's control over the Disputed Domain Name remains an implied ongoing threat to the Complainant regardless of whether the Disputed Domain Name is being actively used or not.

Based on the available record, the Panel finds that the third element of the Policy has been established.

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 <stellantisfinancialservices.com> be cancelled.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: May 28, 2024