

## **ADMINISTRATIVE PANEL DECISION**

Cebeo N.V. v. Francis Gouda  
Case No. D2024-1835

### **1. The Parties**

The Complainant is Cebeo N.V., Belgium, represented by Taylor Wessing N.V., Netherlands (Kingdom of the).

The Respondent is Francis Gouda, France.

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

The disputed domain name <cebeo-sonepar.com> is registered with Hostinger Operations, UAB (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 1, 2024. On May 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 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 (Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 7, 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 May 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 May 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 13, 2024.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on June 26, 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 company established under the laws of Belgium. It is part of the Sonepar group and engages in the B2B distribution of electrical equipment and solutions. The Complainant is also referred to as "Cebeo, A Sonepar Company" (Annexes 3 and 4 to the Complaint). The Complainant is owner of the below listed trademarks:

Benelux ("BX") trademark No. 1463980 CEBEO (word), registered October 11, 2022, for goods and services in Classes 7, 8, 9, 11, 19, 35, 37, 39, 40, 41, 42 and 45;

BX trademark No. 1463981 CEBEO (figurative), registered on October 11, 2022, for goods and services in Classes 7, 8, 9, 11, 19, 35, 37, 39, 40, 41, 42 and 45;

The Complainant operates its principal website under the domain name <cebeo.be> (Annex 4 to the Complaint), which it also uses as domain name for email correspondence with customers (Annexes 5 A to C to the Complaint).

The disputed domain name was registered on March 26, 2024. It was used, on March 27, 2024, within the email address [Redacted]@cebeo-sonepar.com. This email address was communicated to suppliers of the Complainant as address for service of overviews of due invoices and credit notes which the Respondent requested from those suppliers (Annexes 5 A to C to the Complaint).

#### **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 it owns rights in trademarks for CEBEO. Further, the Complainant states that it is also referred to as "Cebeo, A Sonepar Company", as it is part of the Sonepar group of companies. The Complainant argues that the disputed domain name is at least confusingly similar to its CEBEO trademark, as the disputed domain name incorporates this trademark in its entirety. The addition of the word "sonepar" would, in the opinion of the Complainant, only leads to more confusion on the part of the public because of the corporate affiliation of the Complainant with the Sonepar group.

On the second element, the Complainant puts forth that the Respondent is unknown to the Complainant and has no rights or legitimate interests in the disputed domain name, nor has he acquired any trademarks rights for CEBEO. Also, so the Complainant, it has not licensed or otherwise permitted the Respondent to use the disputed domain name. According to the Complainant, the Respondent has, only one day after registration of the disputed domain name, used the same as follows. On March 27, 2024 several of the Complainant's suppliers received a phone call from a person presenting himself as an employee of the Complainant and called himself "Franky". According to "Franky", the Complainant lost 80% of its data as a result of a cyber-attack and for that reason was contacting suppliers because the Complainant wanted to be able to pay the Complainant's supplier's invoices. He requested the Complainant's suppliers to send an ".xls" file with an overview of all the due invoices and credit notes including a copy of an invoice, which information should be sent to the email address [Redacted]@cebeo-sonepar.com (Annexes 5 A to C to the Complainant). The Complainant argues that this illustrates that the Respondent only registered the disputed domain name only

to derive financial benefit and to commit fraud, which under no circumstances can confer rights or legitimate interests to register or use the disputed domain name.

On the third element, the Complainant again refers to its allegations and evidence that the Respondent registered the disputed domain name on March 26, 2024, i.e. only one day before the identity fraud, referred to under the second element, was committed. This, so the Complainant, shows a clear intention on the part of the Respondent to target the Complainant at the time of registration of the domain name and clearly indicates that the disputed domain name was registered in bad faith. The Complainant states that it is well accepted that using a domain name to perpetuate fraud constitutes bad faith use. The Complainant also requests the Panel to draw adverse inferences from the Respondent's potential failure to take part in the present proceeding where an explanation is called for (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 4.3, and the use of a privacy proxy service [WIPO Overview 3.0](#) at section 3.6.

## **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 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 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 "-sonepar", may bear on assessment of the second and third elements, the Panel finds the addition of this term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy.

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 a respondent fails to come forward with such relevant evidence, a 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 Panel finds that the composition of the disputed domain name (the addition of the Complainant's group's name "sonepar" after the Complainant's trademark) carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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

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.

In the present case, the Panel notes that the Respondent has used the inherently misleading disputed domain name within a fraudulent scheme, targeting customers of the Complainant and requesting them under a false pretext to send commercial data to the Respondent, claiming to be an employee of the Complainant and to underline the alleged employment, using the disputed domain name within an address for receipt of such data. This constitutes false impersonation for commercial gain under the paragraph 4(b)(iv) of the Policy.

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 or other types of fraud, 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 agrees with the Complainant that in the present case the use of a privacy service for registration and the failure to participate in the proceedings serves to underline the bad faith on the part of the Respondent.

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, <cebeo-sonepar.com>, be transferred to the Complainant.

*/Andrea Jaeger-Lenz/*

**Andrea Jaeger-Lenz**

Sole Panelist

Date: July 10, 2024