

ADMINISTRATIVE PANEL DECISION

VDA Verband der Automobilindustrie e.V. v. Reda FETTAH, Petroleum Africa
Case No. D2024-1963

1. The Parties

The Complainant is VDA Verband der Automobilindustrie e.V., Germany, represented by Kroher Strobel Rechts- und Patentanwälte PartmbB, Germany.

The Respondent is Reda FETTAH, Petroleum Africa, Morocco.

2. The Domain Name and Registrar

The disputed domain name <adbluemaroc.com> (the “Domain Name”) 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 May 10, 2024. On May 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 10, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 to Complainant May 13, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on May 14, 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 Respondent of the Complaint, and the proceedings commenced on May 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2024. Respondent sent an email communication to the Center on May 23, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on June 21, 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

Complainant describes itself as “an interest group of the German automotive industry, including both automobile manufacturers and automobile component suppliers.” Complainant alleges that it “actively pursues the interests of the German automotive industry in sectors such as the aftermarket, electric mobility, logistics and customs and excise.”

Complainant asserts that it holds several trademark registrations for ADBLUE in various jurisdictions, including: EUTM 003 945 938 ADBLUE (word) in classes 1, 4, 12, 37 and 42 (registered on February 6, 2006); EUTM 008 526 717 ADBLUE (word) in classes 6, 7, 9, 20, 35 and 42 (filed registered March 8, 2010); International TM 1 042 880 ADBLUE (word) in classes 7, 9, 12 and 39 (registered on August 15, 2015); and International TM 811 899 ADBLUE (word) (registered on September 15, 2004. Among the goods included in these trademark registrations are machines and machine tools, engines, automobiles, chemicals, fuels, lubricants, operating fluids for internal combustion engines, as well as “exhaust gas treatment installations and parts therefor, for internal combustion engines.

According to Complainant, ADBLUE “is a well-known trademark used for urea that reduces the NOx emissions of diesel engines, particularly in the field of commercial and heavy goods vehicles.” Complainant states that it “is entrusted with protecting and enforcing this trademark on a worldwide scale and has established a licensing system for companies in the chemical industry who supply and manufacture urea.”

Annexed to the Complaint are various of Complainant’s trademark registrations for ADBLUE, as well as a list of Complainant’s licensees as discussed above. According to Complainant, Respondent is not authorized by Complainant to use the ADBLUE mark in a domain name or otherwise.

The Domain Name was registered on April 4, 2016. The Domain Name resolves to a website offering urea solutions for the purposes of reducing the NOx emissions in vehicles and engines.

Respondent did not specifically reply to the foregoing allegations by Complainant. Rather, in his May 23, 2024 email to Center, Respondent stated:

“I don’t understand the problem since the domain is used to sell BASF AdBlue and it’s clearly mentioned on the web site. My supplier is Resnova which the distributor of BASF AdBlue in Morocco. Please contact BASF and ask them about this distributor. Of course I have invoices. My question is : what is your claim?”

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer or cancelation of the Domain Name.

B. Respondent

Respondent did not submit a formal Response. The entirety of Respondent’s May 23, 2024 email to the Center is quoted above in the “Factual Background” section.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the 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 Complainant's trademark and the Domain Names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

The Panel concludes that Complainant has rights in the trademark ADBLUE through registration demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The Domain Name entirely incorporates the ADBLUE mark and adds the geographical descriptor "Maroc" (French for Morocco). The Panel concludes that the mark remains clearly recognizable within the Domain Name despite this additional word.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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 often primarily within the knowledge or control of the respondent. Thus, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the respondent fails to come forward with such relevant evidence, the complainant is deemed to have domain name (although the burden of proof always remains on the complainant). If the satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. It is fairly obvious that Respondent was aware of Complainant's ADBLUE trademark when he registered the Domain Name; the similarity of the goods sold by Complainant under the ADBLUE mark and the goods sold by Respondent via the Domain Name makes this conclusion inescapable. Respondent's extensive use of the ADBLUE mark at his commercial website gives the false impression of affiliation between the Parties, or of authorization by Complainant to Respondent to use the ADBLUE mark. It is not legitimate for Respondent to free ride on Complainant's trademark to enhance his own sales.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section. On this record, the Panel finds that Respondent targeted Complainant’s mark when registering the Domain Name and did so in violation of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

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 Domain Name <adbluemaroc.com> be canceled.

/Robert A. Badgley/
Robert A. Badgley
Sole Panelist
Date: June 28, 2024