

ADMINISTRATIVE PANEL DECISION

Ekoo Electronic Co., Ltd. v. Chen, Jianjun, Eugad GmbH
Case No. D2024-1979

1. The Parties

The Complainant is Ekoo Electronic Co., Ltd., China, represented by Advance China IP Law Office, China.

The Respondent is Chen, Jianjun, Eugad GmbH, Germany.

2. The Domain Name and Registrar

The disputed domain name <laesar.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 13, 2024. On May 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 15, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 17, 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 21, 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 12, 2024.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on June 19, 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 based in Shenzhen, China registered with the Chinese Trade Registry on October 23, 2014. It founded the brand “LARESAR” in 2009 to identify clean household appliances and in particular vacuum cleaners.

The Complainant owns inter alia the following registrations for LARESAR:

- United States of America trademark registration no. 5966098 registered on January 21, 2020, in class 7;
- European Union trademark registration no. 018076319 registered on September 26, 2019, in class 7;
- Chinese trademark registration no. 53969166 registered on December 14, 2021, in class 7.

The Complainant operates an official website through its associated company “Sunco Electronic Co., Limited” under the domain name <laesar.us>, registered on July 20, 2020.

The disputed domain name was registered on March 23, 2021.

At the time of filing of the Complaint, the disputed domain name resolved to a website in German language, presenting itself as an “official website”, and reproducing the Complainant’s LARESAR logo. Such website displayed LARESAR branded cleaning household appliances, and redirected visitors interested in a purchase to third party commercial platforms.

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 its LARESAR registered trademark as it identically reproduces its trademark.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons: (i) the Respondent has no trademark rights in the term LARESAR neither has the Respondent received any license or authorization from the Complainant to use any domain names featuring its trademark; (ii) the Respondent is not commonly known by the distinctive term LARESAR, or any similar term; (iii) the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services. The Complainant submits that the disputed domain name carries a risk of implied affiliation with the Complainant.

Finally, the Complainant contends that the Respondent has used and registered the disputed domain name in bad faith. Given that the Complainant’s rights predate the registration of the disputed domain names and given the Complainant’s online presence, it is highly likely, according to the Complainant, that the Respondent was well aware of the Complainant’s trademark rights at the time of registration of the disputed domain name. The Complainant asserts that the Respondent is intentionally creating confusion in order to intentionally attempt to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation or endorsement of its website.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name registered by the respondent 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 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 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.

Based on the information submitted by the Complainant, the latter did not grant the Respondent any authorization to use the disputed domain name. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

According to UDRP panels, a respondent's use of a domain name is not be considered "fair" if it falsely suggests affiliation with the trademark owner.

In the present case, the disputed domain name reproduces the Complainant's trademark in its entirety and as the sole element associated with the ".com" extension.

The Respondent appears to be using the disputed domain name in connection with a commercial website offering for sale LARESAR branded products.

UDRP Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name (section 2.8 of the [WIPO Overview 3.0](#)). Outlined in the "Oki Data test" (*Oki Data Americas Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)), the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

In the present case, the screenshots of the home page of the website to which the disputed domain name resolves do not feature any disclaimer concerning the relationship between the Respondent and the Complainant. On the contrary, on the Respondent's website, the LARESAR trademark of the Complainant is displayed within a banner at the top of the page, creating the impression of an official website, operated or at least endorsed by the Complainant.

By failing to accurately disclose the relationship, or rather lack thereof with the Complainant, the Respondent conveyed the false impression that the Respondent is the Complainant itself, or an authorized retailer, where this is not the case.

The Panel finds accordingly that the requirements of the "Oki Data test" are not satisfied in the present case.

Furthermore, when a domain name is identical to the complainant's mark, the domain name carries a high risk of implied affiliation. In such case, the risk of misrepresentation has led panels to find that a respondent lacks rights or legitimate interests ([WIPO Overview 3.0](#), section 2.5.1. and 2.8.2).

In view of the above, the Panel finds that the disputed domain name, which incorporates the Complainant's trademark in its entirety without meeting the conditions of the "Oki Data test", falsely suggests affiliation with the Complainant, so that the Respondent's use of the disputed domain name may not be considered fair.

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 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.

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.

Given that the trademark LARESAR of the Complainant is distinctive and has been widely used before the registration of the disputed domain name, and that the Respondent used the Complainant's logo on the website operated under the disputed domain name, the Panel accepts that the Respondent was aware of the existence of the Complainant and of its LARESAR trademark at the time of the registration of the disputed domain name.

The Respondent is using prominently the logo of the Complainant on its website without any indication regarding its relationship to the Complainant. Such use is apt to create the false impression that the website is operated or endorsed by the Complainant, thus misleading, for commercial gain, consumers looking for the Complainant's website. Accordingly, the Panel finds it likely that the Respondent intentionally created a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. This is a circumstance of use of a domain name in bad faith according to paragraph 4(b) of the Policy. For the reasons set out above, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith, and that the Complainant has satisfied the condition set forth in paragraph 4(a)(iii) of 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 <laesar.com> be transferred to the Complainant.

/Anne-Virginie La Spada/

Anne-Virginie La Spada

Sole Panelist

Date: July 4, 2024