

ADMINISTRATIVE PANEL DECISION

AEW EUROPE SA v. kopp stephane

Case No. D2024-2107

1. The Parties

The Complainant is AEW EUROPE SA, France, represented by MIIP MADE IN IP, France.

The Respondent is kopp stephane, France.

2. The Domain Name and Registrar

The disputed domain name <ullis-immo.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 21, 2024. On May 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 22, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 27, 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 29, 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 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 25, 2024.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on July 8, 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 part of the group AEW EUROPE SA, a real estate investment company, affiliate of NATIXIS INVESTMENT MANAGERS.

In 2021, AEW has launched a new pan-European urban logistics and light industrial platform named ULLIS. This platform aims at building a core portfolio of assets located across major and dense metropolitan areas in France, Germany, and the Netherlands (Kingdom of).

In this context, AEW EUROPE SA is notably the owner of the following trade marks:

- European Union trade mark registration ULLIS N° 018351642, filed on December 9, 2020 and registered on April 30, 2021;
- United Kingdom trade mark registration ULLIS N° UK00003653313, filed on June 9, 2021 and registered on October 22, 2021.

The Complainant is also the owner of the domain name <aew-ullis.com> registered on March 5, 2021 and redirecting to its official website "www.aew-ullis.com".

The disputed domain name was registered on December 7, 2023. Since its detection, it redirects to an inactive webpage, but it has been used to create at least one email address to send at least one message to one potential client requesting several financial information. At the time of the filing of the Complaint, MX servers have been deactivated following the Complainant's request.

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 identical and confusingly similar to its prior rights. The disputed domain name uses the Complainant's trade mark ULLIS in its entirety, in first position, and simply adds the descriptive term "immo", after a hyphen. "immo" is the contracted form of "immobilier", which means "real estate" in French. The sign ULLIS has no particular meaning. The hyphen added is generic by nature, and does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trade mark. As for the term "IMMO", it increases the likelihood of confusion since real estate is the Complainant's field of investment.

Then, the Complainant adds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. First, the Respondent has no trade mark rights in respect of the disputed domain name. Based on a search conducted by the Complainant, the Respondent has not filed or registered any trade mark consisting in ULLIS-IMMO. There is no business or legal relationship between the Complainant and the Respondent, and the Complainant has neither authorized nor licensed the Respondent to use its trade marks in any way. Moreover, the Respondent is not commonly known as ULLIS-IMMO. As the disputed domain name does not resolve to an active website, the Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with bona fide offering goods or services. On the contrary, the aforementioned elements suggest that the Respondent reserved the disputed domain name to take unfair advantage of the Complainant's reputation and to mislead the Internet user.

Finally, the Complainant asserts that the disputed domain name was registered and is being used in bad faith. Indeed, according to the Complainant, the choice of the disputed domain name <ullis-immo.com> cannot be a coincidence as it incorporates the Complainant's trade mark, which has no meaning, and the descriptive term "immo", which refers to the field of activity and the Complainant. Objectively, the only

reason for having registered this disputed domain name is to create confusion in the public's mind. Furthermore, when registering the disputed domain name, the Respondent employed a privacy service in order to hide its identity and avoid being contacted or notified, which is an inference of bad faith. In addition, even if the Respondent has apparently made no active use of the disputed domain name, as it does not resolve to an active website, the non-use of a domain name (including a blank or "coming soon" page) does not prevent a finding of bad faith under the doctrine of passive holding. Finally, the Complainant indicates that the disputed domain name has been used to create at least one fraudulent email address, used by the Respondent to send at least one email to one of the Complainant's client, presenting itself as an employee of ULLIS and offering investment opportunities. The activity of the Complainant is sensitive as it involves significant financial amounts, and the consequences of phishing campaigns and scams might be very harmful for both the Complainant and its clients. It can therefore be concluded that the Respondent intentionally tried to take advantage of the trade mark ULLIS in an attempt to generate profits, using the e-mail services attached to the disputed domain name.

The Complainant requests the transfer of the disputed domain name.

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 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 "immo" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 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.

Panels have held that the use of a domain name for illegal activity, here phishing, 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, of all the arguments presented by the Complainant, the Panel notes that the most convincing is that of the operation of a fraudulent phishing scheme by the Respondent.

Panels have held that the use of a domain name for illegal activity here, phishing, and impersonation 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 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 <ullis-immo.com> be transferred to the Complainant.

/Benjamin Fontaine/

Benjamin Fontaine

Sole Panelist

Date: July 22, 2024