

ADMINISTRATIVE PANEL DECISION

Groupe Nocibe v. marcus vinicius Silva
Case No. D2024-2795

1. The Parties

The Complainant is Groupe Nocibe, France, represented by SCP Deprez, Guignot et Associés, France.

The Respondent is marcus vinicius Silva, Brazil.

2. The Domain Name and Registrar

The disputed domain name <nocibeparfumss.com> 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 July 9, 2024. On July 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (REGISTRATION PRIVATE) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 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 July 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 July 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 14, 2024.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on August 27, 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, GROUPE NOCIBE, is a French perfume and cosmetics retailer, founded in Lille, France in 1984 by Daniel Vercamer. In 2014 it became a subsidiary of the German Douglas Holding group, and is now one of the leaders in the selective distribution of perfumes and cosmetics.

The Complainant claims to have 15 million customers in stores and over 60 million visitors to its website which offers access to all the major brands distributed by the Complainant.

The Complainant owns, several trademarks registrations including the word “NOCIBE” across the world. These trademarks are being continuously used since many years to identify the Complainant and its goods and services including the following:

International trademark registration n°682885 NOCIBE, registered on October 24, 1997, in classes 3 and 42;

French trademark registration n°96643502 NOCIBE, registered on March 14, 1997, in classes 3, 5, 8, 14, 18, 21, 25, and 44; and
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European Union trademark registration n° 018461113, registered on September 23, 2021, in classes 3, 5, 8, 14, 18, 21, 25, 26, 35, and; 44.

In addition, the Complainant is running the official website at “www.nocibe.fr” to offer its goods and services.

The disputed domain name was registered July 2, 2024 and at the time of filing the Complaint, it redirected to a website prominently displaying the Complainant’s NOCIBE trademark and offering different brands’ products at discounted prices.

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 Respondent uses the website associated with the disputed domain name to promote a website which offers services related to the marketing of cosmetic products and perfumes which is identical to the Complainant’s field of activity and gives the impression that this website belongs to or is linked to the Complainant. Such use demonstrates neither a bona fide offering of goods and services nor a legitimate noncommercial or fair use of the disputed domain name.

Finally, the Complainant requests the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

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.

The Panel finds the mark is recognizable 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, "parfumess" 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.

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.

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.

The Panel is satisfied that the Respondent must have been aware of the Complainant's name and trademark NOCIBE mentioned in Section 4 above ("Factual Background") when it registered the disputed domain name on July 2, 2024, many years after the Complainant had registered and intensely used the NOCIBE name and trademark.

The Respondent when registering the disputed domain name has targeted the Complainant's name and trademark to capitalize on their reputation for its own benefit, which is tantamount to bad faith under the Policy.

The Panel considers that while the disputed domain name is not currently active, not long ago, it redirected to a website prominently displaying the Complainant's NOCIBE trademark and offering different brands' products at discounted prices, and therefore was liable to confuse Internet users leading them to think that it belonged to or was sponsored by the Complainant with the purpose of benefitting from the prestige of the Complainant's mark.

The fact that the disputed domain name does not currently resolve to an active webpage does not prevent a finding of bad faith under the "passive holding" doctrine of [WIPO Overview 3.0](#), section 3.3.

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 <nocibeparfumss.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: September 4, 2024