

ADMINISTRATIVE PANEL DECISION

Comité National pour la Sécurité des Usagers de l'Electricité (CONSUEL) v.
Mr. Julien Buisson
Case No. D2024-2808

1. The Parties

The Complainant is Comité National pour la Sécurité des Usagers de l'Electricité (CONSUEL), France, represented by Coblence Avocats, France.

The Respondent is Mr. Julien Buisson, France.

2. The Domain Name and Registrar

The disputed domain name <consuels.com> is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 10, 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 July 17, 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) 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 amendment to the Complaint on July 18, 2024.

The Center verified that the Complaint together with the amendment to the 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 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 28, 2024.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on September 9, 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 French non-profit association created in 1964. Its mission is to promote electrical safety by supporting the professional quality of the electrical industry in order to limit the risk of accidents. The main idea is to encourage electrical installers to carry out self-inspection of their work in accordance with regulations and standards, before the installations are energized.

CONSUEL stands for Comité National pour la Sécurité des Usagers de l'Electricité.

By decree dated September 29, 2004, the French government declared CONSUEL to be of public utility.

For the needs and purposes of its activities, the Complainant holds trade mark registrations for CONSUEL. The complaint contains evidence of four semi-figurative trade marks registered in France.

In the context of the present case, it is sufficient to note the registration of French trade mark no. 4690134, CONSUEL (semi-figurative), filed on October 9, 2020 and registered on December 16, 2022.

The Complainant also owns several domain name registrations to promote its services and provides relevant information, including <consuel.com> registered on February 25, 1999, and <consuel.fr> registered on December 9, 2008.

The disputed domain name was registered on June 25, 2024, and leads to an inactive website.

The Complainant sent a cease-and-desist letter to the registrar IONOS SE on July 5, 2024, in English, asking for the termination of services used by the Registrant or the deletion of the disputed domain name. This letter received no answer.

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 or confusingly similar to a trade mark or service mark in which the Complainant has rights. The word "consuel" is an acronym and has no meaning in English or in French. However, the disputed domain name reproduces this distinctive term CONSUEL, which is a registered trade mark. The sole difference between the Complainant's prior trade marks and the disputed domain name <consuels.com> lays in the addition of the letter "s" at the end of the word element "consuel". The presence of the top-level domain extension ".com" is irrelevant and cannot be taken into consideration in determining whether there is a confusingly similarity. Consequently, it appears that the disputed domain name and the prior trade marks CONSUEL are confusingly similar.

Second, the Complainant maintains that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no rights in the name "consuel" and is in no way affiliated with the Complainant and has not been authorized by the Complainant to use its prior trade marks or to proceed with the registration of the disputed domain name including the Complainant prior trade marks. Indeed, the Complainant does not know and has never had any relationship with the Respondent. The

Respondent is neither a licensee nor a third party authorized to use the trade marks, including for a domain name. The fact that the disputed domain name <consuels.com> directs to a page indicating that the website is inaccessible, is not evidence of a bona fide offering of goods or services. The Respondent is not making a legitimate, non-commercial or fair use of the disputed domain name.

Finally, the Complainant asserts that the disputed domain name was registered and is being used in bad faith. The Complainant is the owner of several trade marks and domain names composed of the word "consuel". The registrations of the Complainant's trade marks CONSUEL significantly predate the date of the registration of the disputed domain name and the disputed domain name reproduces in full the Complainant's prior trade marks. This, therefore, strongly suggests that the Respondent had the Complainant's prior rights in mind when registering the disputed domain name. The disputed domain name directs to a page which indicates that the website is inaccessible. However, the passive holding of a domain name could constitute bad faith according to the Policy. In the present case, the Complainant indicates that it is obvious that the Respondent deliberately registered a quasi-identical domain name with the intent to divert Internet users from the Complainant's website. Therefore, the Complainant concludes that the disputed domain name was registered and is being used in bad faith.

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 trade mark 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 trade mark 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 addition of the letter "s" 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.

Basically, the Complainant bases its arguments on the doctrine of bad faith passive holding. Indeed, Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

However, the Complainant has not developed a line of arguments and evidence that meets the conditions for such a finding. In particular, the Complainant has not claimed that the earlier trade mark CONSUEL is well-known, has not analysed the impact of the final letter S added to CONSUEL, and has not provided feedback on the Respondent.

The Panel, however, has conducted limited factual searches, and has noted the following:

- The Respondent, who is located in France, seems to work for the company "Renov Home" in the building and renovation sector, where the safety of electrical networks is a key issue. The Panel finds it more likely than not that the Respondent had the Complainant's trade mark in mind when registering the disputed domain name;

- In today's technical language, CONSUEL is not only the name and brand of the Complainant, but the word "consuels" is being used also to refer, in plural, to the certificates of conformity for electrical installations issued by the Complainant, and that are required when electricity is installed for the first time, especially in professional premises. This term is theoretically familiar to anyone working in the renovation sector. This reinforces the notion that the Respondent was aware of and intentionally targeted the Complainant in an attempt to attract, for commercial or fraudulent purposes, Internet users to its website.

Based on these elements, and of the lack of response of the Respondent, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of 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 <consuels.com> be transferred to the Complainant.

/Benjamin Fontaine/

Benjamin Fontaine

Sole Panelist

Date: September 23, 2024