

ADMINISTRATIVE PANEL DECISION

Societe Cooperative Agricole Limagrain v. Jean Hte, BELGRAVIA

BIDCO ApS

Case No. D2024-2922

1. The Parties

The Complainant is Societe Cooperative Agricole Limagrain, France, represented by Ebrand France, France.

The Respondent is Jean Hte, BELGRAVIA BIDCO ApS, Cameroon.

2. The Domain Name and Registrar

The disputed domain name <limagrainagro.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 July 9, 2024. On July 17, 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 (Privacy service provided by Withheld for Privacy ehf) 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 19, 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 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 17, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on August 20, 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 an international agricultural cooperative specialized in field seeds, vegetable seeds and cereal products. The Complainant owns many trademark registrations for LIMAGRAIN such as:

- 1) International Trademark Registration No. 808393, registered on April 23, 2003;
- 2) International Trademark Registration No. 419098, registered on November 21, 1975.

The Complainant owns several domain names with the trademark LIMAGRAIN, including its main domain name <limagrain.com>.

The disputed domain name was registered on April 8, 2024, and resolves to a website that pretends to offer products such as vegetables, seeds, and frozen seafood.

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 trademark or service mark in which the Complainant has rights. The disputed domain name contains the Complainant's trademark, which is not a dictionary word. The Complainant's trademark in the disputed domain name is associated with the word "agro", which is the acronym for agriculture and thus relates to the Complainant's activity. Generic terms do not eliminate confusing similarity. In the current case, on the contrary, Internet users will be left with the impression that the disputed domain name is the Complainant's online shop, especially given the content of the website to which the disputed domain name resolves.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not making a legitimate, noncommercial or fair use of the disputed domain name. On the contrary, it is attempting to mislead consumers as it uses the contact information of one of the Complainant's companies and purports to offer similar products. Thus, it attempts to impersonate the Belgian company of the Complainant. The Respondent is not commonly known by the disputed domain name or the trademark LIMAGRAIN, which is owned by the Complainant and was registered together with the Complainant's domain names prior to the registration of the disputed domain name. The Complainant did not authorize the Respondent to use its trademark in the disputed domain name and the Respondent does not have a license or franchise.

The Complainant contends that the disputed domain name is registered and is being used in bad faith. The Respondent is intentionally attempting to attract for commercial gain, Internet users by creating the likelihood of confusion. The disputed domain name incorporates the Complainant's trademark together with a word that refers to its activity. The disputed domain name redirects to a website that is similar to the Complainant's official website and contains the address of the Belgian entity of the Complainant. The Respondent is impersonating the Complainant. The configuration of the Email Exchange ("MX") servers allows the domain name to be used in the form of email addresses to collect sensitive information, i.e. phishing. The Respondent never answered the Complainant's notice.

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, "agro", 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, claimed impersonation/passing off, 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, the Panel notes that the Respondent must have been aware of the Complainant's trademark and has attempted to impersonate the Complainant as under the Contact Us tab, the office location of the Complainant's Belgian entity is inserted. Also, the products displayed on the website of the Respondent are of the same type as those offered by the Complainant and the Complainant's trademark is displayed on the website. Additionally, the Complainant's trademark was registered almost fifty years before the registration of the disputed domain name.

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.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, 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 <limagrainagro.com> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: August 23, 2024