

ADMINISTRATIVE PANEL DECISION

Rubis Energie v. PIERRE LEROY

Case No. D2024-3110

1. The Parties

The Complainant is Rubis Energie, France, represented by IP Twins, France.

The Respondent is PIERRE LEROY, France.

2. The Domain Name and Registrar

The disputed domain name <rubis-energy.com> is registered with Yelles AB (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 30, 2024. On July 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 30, 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 August 5, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On August 5, 2024, the Center informed the Parties in French and English, that the language of the registration agreement for the disputed domain name is French. On August 16, 2024, the Complainant filed an amended Complaint that contained a request for English to be the language of the proceeding. The Respondent did not submit any comment on the language of the proceeding.

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 September 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 1, 2024.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on October 14, 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 Rubis Energie, a French independent energy company, subsidiary of the Rubis Group, an international holding company based in France and founded in 1990. Historically specialized in the storage, distribution and sale of liquefied gases and petroleum products (service station networks, aviation and marine fuels, commercial fuel oil, lubricants), the Complainant has extended its activities to bitumen production and other energies (especially renewable energies and electricity). In 2023, the group, present in over 35 countries, generated sales of over EUR 6.6 billion.

The Complainant has provided a non-exhaustive list of trade mark registrations in its name containing the expression "RUBIS ENERGIE", including the following:

- the French trade mark RUBIS ENERGIE No.3431985 registered on November 3, 2006;
- the International trade mark  No. 1219226 registered on June 18, 2014;

The Complainant also claims that it holds several domain names, including the domain name <rubisenergie.com> registered on June 9, 2006.

The disputed domain name <rubis-energy.com> was registered on July 11, 2024 and redirects to the Complainant's official website, in its English/international version: "www.rubisenergie.com/en/homepage". As of the date of this Decision, the disputed domain name still redirects to the Complainant's official website.

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 points out that the disputed domain name is highly similar to its trade marks RUBIS ENERGIE. Although the word "energie" (French) is replaced by "energy" (English), both words have the same meaning in two different languages and are almost identical visually. This minor difference does not prevent the Complainant's trade mark from being clearly recognizable, nor does it enable the disputed domain name to avoid the risk of confusion with the Complainant's trade marks. As a result, the first condition under the Policy should be deemed satisfied.

Next, the Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant carried out trade mark searches and found no trade marks containing the words "Rubis Energy" or "rubisenergy" owned by any person or entity other than itself. The Respondent has therefore not acquired any trade mark containing these terms that could have given it rights in the disputed domain name. Then, the Complainant found no evidence that the Respondent is known under the disputed domain name as an individual, company or other organization. The Complainant has not authorized the use of its trade marks or similar terms in the disputed domain name, in any manner or form whatsoever. Moreover, the Respondent has not used or made preparations to use the disputed domain name in relation to a bona fide offering of goods or services. The disputed domain name redirects to nothing other than the Complainant's home page: that it is likely to mislead Internet users. Such action cannot qualify as a legitimate non-commercial or fair use of the disputed domain name coming from an unauthorized

third-party such as the Respondent. There is no evidence that the Respondent has been making a legitimate noncommercial or fair use of the disputed domain name and the second condition under the Policy should be deemed satisfied.

Finally, the Complainant asserts that the disputed domain name was registered and is being used in bad faith. The Complainant's trade marks predate the registration of the disputed domain name. A quick trade mark search or search engine query would have revealed to the Respondent the existence of the Complainant and its trade marks. A simple search on "rubis-energy" or "rubis energy" on an online search engine yields top results exclusively related to the Complainant. Then the Respondent necessarily had the Complainant's name and trade marks in mind when it registered the disputed domain name. The current use of the disputed domain name through the redirection towards the Complainant's website, proves that the Respondent specifically chose to register the disputed domain name for its similarity with the Complainant's trade marks. Panels have found that a Respondent redirecting a domain name to the Complainant's website can establish bad faith, insofar as the Respondent retains control over the redirection, thereby creating a real or implied ongoing threat to the Complainant (section 3.1.4, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The Complainant further contends that an email server had been configured on the disputed domain name, as established by the presence of MX entries, thus inducing that the Respondent might be using the disputed domain name for potential fraudulent use and/or phishing purposes.

Finally, the Complainant indicates that the Respondent had already been involved in proceedings initiated by the Complainant. See *Rubis Energie v. Pierre Leroy*, WIPO Case No. [D2024-2203](#). Therefore, the Complainant submits that the Respondent is actively targeting the Complainant and its customers by registering domain names reproducing the trade marks RUBIS ENERGIE.

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

As mentioned above, a previous UDRP decision involving the same parties and a highly similar factual background was issued on July 18, 2024. The Panel fully concurs with the reasoning of the previous panelist in this case, and will reach exactly the same conclusions:

6.1. Procedural Issue: Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the Proceeding shall be the language of the Registration Agreement for the disputed domain name.

The Complaint was filed in English by the Complainant on July 30, 2024. However, on August 5, 2024, the Center informed the Parties in French and English, that the language of the Registration Agreement for the disputed domain name is French and that the Respondent is located in France.

On August 16, 2024, the Complainant filed an amended complaint requesting that the language of the proceeding remain English, although French is also a language of the Complainant, for the following reasons:

- the Registrar is a Swedish company, and the Registration agreement available on the Registrar's website is in English, suggesting, in the absence of information about the Respondent, that the Registration Agreement would be in English.

- translating the complaint originally filed in English into French would entail an unjustified burden and delay for the Complainant, likely to compromise the efficiency of the Proceeding;
- both Parties have already been engaged in proceedings in English before the Center. See *Rubis Energie v. Pierre Leroy*, WIPO Case [D2024-2203](#).

The Complainant left it to the Respondent to request otherwise.

The Respondent did not make any specific submissions with respect to the language of the proceeding, despite the Center's invitation to do so, expressed in French as well as in English, sent to the Respondent on August 5, 2024.

In the absence of an agreement between the Parties, the Panel may, in its sole discretion, having regard to the circumstances of the Proceeding, decide on the written request of a Complainant that the language of the Proceeding will be different than the language of the Registration Agreement for the disputed domain name.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see [WIPO Overview 3.0](#), section 4.5.1).

The Panel first notes that the disputed domain name contains the word "energy" in its English version which suggests that the Respondent knows the English language. Then the disputed domain name redirects to the Complainant's website in its English version, thus evidencing that English is a language used and understood by the Respondent. The Center's communications with the Parties were issued in English and French, and the Respondent did not reply. And there is indeed a previous decision issued on July 18, 2024, issued in English and concerning the same Respondent (*Rubis Energie v. Pierre Leroy*, WIPO Case No. [D2024-2203](#)).

The Panel infers from the above circumstances that the Respondent will not be unduly prejudiced by a change of the language of the proceeding to English, in the light of him having failed to timely object to such possibility. Having to ensure that the proceeding takes place with due expedition, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Assessment

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 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 Panel finds the mark is recognizable within the disputed domain name, even if the word "energie" is translated into English. 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 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.

In the present case, the Panel notes that redirecting the disputed domain name to the Complainant's main website proves knowledge of the earlier trade mark. In addition to showing bad faith registration with prior knowledge of the Complainant’s trade mark, it evidences also bad faith use: such redirection is made in an attempt to intentionally attract Internet users by creating a likelihood of confusion with the Complainant's trade mark. Furthermore, MX servers were configured on the disputed domain name, thus enabling the Respondent to generate e-mail addresses. This fact also constitutes a threat of abusive use of the disputed domain name.

In addition, the Respondent has recently engaged in a pattern of registering domain names that incorporate the Complainant’s trade marks: see *Rubis Energie v. Pierre Leroy* , WIPO Case No. [D2024-2203](#) discussed above.

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 third element of the Policy is therefore established.

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 <rubis-energy.com> be transferred to the Complainant.

/Benjamin Fontaine/

Benjamin Fontaine

Sole Panelist

Date: October 28, 2024