

ADMINISTRATIVE PANEL DECISION

Société cooperative d'approvisionnement de l'ouest (SCA Ouest) v. Marc Dupont

Case No. D2024-3823

1. The Parties

The Complainant is Société cooperative d'approvisionnement de l'ouest (SCA Ouest), France, represented by Hoalen Avocats, France.

The Respondent is Marc Dupont, Côte d'Ivoire.

2. The Domain Name and Registrar

The disputed domain name <scaouest-fr.com> (the "Domain Name") is registered with eNom, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 19, 2024. On September 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 20, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Unknown) and from the Respondent identified by reference to Annex 2 to the Complaint (Whois Agent (601272383), Whois Privacy Protection Service, Inc.), and contact information in the Complaint. The Center sent an email communication to the Complainant on September 25, 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 September 26, 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 September 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 22, 2024.

The Center appointed Ian Lowe as the sole panelist in this matter on October 30, 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 company established in 1970, operating as a regional central purchasing office for the supply of E. Leclerc shopping centers in Western France, supporting 49 stores. It is the registered proprietor of France trademark number 4901636 SCA OUEST registered on January 20, 2023. The Complainant is known by its commercial partners under the trade name SCA OUEST. It registered the domain name <scaouest.fr> on May 24, 1999. The Complainant operates a website at that domain name promoting the Complainant and its services. It also registered the <scaouest.com> domain name on March 13, 2017.

The Domain Name was registered on July 30, 2024. It does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its SCA OUEST trademark, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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 uncontested rights in the trademark SCA OUEST (the “Mark”) by virtue of its trademark registration. Ignoring the generic Top-Level Domain “.com”, the Domain Name comprises the Complainant’s mark together with an apostrophe and the term “fr”, the country code for France. In the Panel’s view, this addition does not prevent a finding of confusing similarity between the Domain Name and the Complainant’s mark for the purposes of the first element under the Policy. Accordingly, the Panel finds that the Domain Name is confusingly similar to a mark in which the Complainant has rights.

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. Accordingly, 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.

The Respondent has not used the Domain Name for a bona fide offering of goods or services. There is no question of the Respondent being known by the Domain Name or of the Complainant having given permission to the Respondent to register or use the Domain Name. In the circumstances of this case, the inactive Domain Name cannot in the Panel’s view indicate rights or legitimate interests.

Having reviewed the available evidence, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the 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 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 Domain Name comprises the entirety of the Complainant’s SCA OUEST mark together with the term “fr”, which reflects the country of establishment of the Complainant. In the Panel’s view, the term SCAOUEST can only be taken to refer to the Complainant. The Panel is therefore satisfied that the Respondent had the Complainant and its rights in the Mark in mind when it registered the 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.

The Panel cannot conceive a legitimate use of the Domain Name by the Respondent (with an address in Côte d’Ivoire), and panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available evidence, the Panel notes the distinctiveness and reputation of the Complainant’s trademark, and the composition of the Domain Name, and finds that in the circumstances of this case the passive holding of the 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 Domain Name <scaouest-fr.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: November 13, 2024