

## **ADMINISTRATIVE PANEL DECISION**

Société Anonyme des Eaux Minérales d'Evian (SAEME) v. guoli pan  
Case No. D2024-4046

### **1. The Parties**

The Complainant is Société Anonyme des Eaux Minérales d'Evian (SAEME), France, represented by Herbert Smith Freehills Paris LLP, France.

The Respondent is guoli pan, Cambodia.

### **2. The Domain Name and Registrar**

The disputed domain name <evianrenew.com> is registered with DropCatch.com LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 2, 2024. On October 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 3, 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 GDPR privacy <https://www.latabledalix.co.ukb>) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 4, 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 October 7, 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 October 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 6, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on November 8, 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 company incorporated in France. It is a supplier of mineral water and related products under the name and mark EVIAN.

The Complainant (or its parent company Danone SA) is the owner of numerous trademark registrations for the mark EVIAN, including for example:

- European Union trademark registration number 001422716 for the word mark EVIAN, registered on September 18, 2006, in International Classes 3, 18, and 32; and

- International trademark registration number 235956 for a figurative mark EVIAN, registered on September 24, 1960, in International Classes 32 and 33.

The Complainant's trademark EVIAN has been recognized by panels in prior proceedings under the UDRP to have obtained the status of a "famous" or "well-known" trademark (see e.g. *Société Anonyme des Eaux Minérales d'Evian (SAEME) v. Sungjun Cho*, WIPO Case No. [D2020-1597](#); *Société Anonyme des Eaux Minérales d'Evian (SAEME) v. Krebs and John Donetsky*, WIPO Case No. [D2024-2568](#)).

The Complainant is the registrant of the domain name <evian.com> and of numerous other domain names including the term "evian".

The Complainant's products include sustainable water dispensing products branded "evian (re)new".

The disputed domain name was registered on May 15, 2024.

The disputed domain name has been used to resolve to various websites, including those with pornographic content.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant provides evidence of its history and corporate profile dating from 1789, including its initial bottling of water in 1826. It states that it currently sells over 1.5 billion bottles of EVIAN water every year, in over 140 countries around the world. It also provides evidence of a significant social media presence.

The Complainant submits that the disputed domain name is confusingly similar to its EVIAN trademark. It contends, in particular, that the addition of the descriptive term "renew" is insufficient to prevent the likelihood of confusion.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its EVIAN trademark, that the Respondent has not commonly been known by the disputed domain name, and that the Respondent is not making any bona fide commercial use of the disputed domain name. The Complainant submits, in particular, that the use of the disputed domain name to resolve to websites including pornographic content cannot give rise to rights or legitimate interests on the Respondent's part.

The Complainant contends that the disputed domain name has been registered and is being used in bad faith. The Complainant submits that, given the distinctive and well-known status of the EVIAN trademark, it is inconceivable that the Respondent was unaware of that trademark when it registered the disputed domain name. The Complainant further submits that, by appending the term “renew” to the EVIAN trademark, in order to refer directly to the Complainant’s products, it is clear that the Respondent has deliberately sought to cause confusion with the Complainant and its products for the purpose of profiteering and deceit.

Concerning the use of the disputed domain name, the Complainant submits that Internet users would undoubtedly expect the disputed domain name to link to a website affiliated to or sponsored by the Complainant. However, the disputed domain name has in fact redirected to other websites, including those with pornographic content, from which it is clear that the Respondent is deliberately using the disputed domain name to mislead Internet users for commercial gain. The Complainant submits that the Respondent’s use of the disputed domain name in this manner also tarnishes its trademark.

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**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

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

### **A. Identical or Confusingly Similar**

The Complainant has established that it is the owner of registered trademark rights in the mark EVIAN. The disputed domain name wholly incorporates that trademark, together with the dictionary term “renew”, which does not prevent the Complainant’s trademark from being recognizable within the disputed domain name.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

In the view of the Panel, the Complainant’s submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. Moreover, the Panel finds that the Respondent registered and has used the disputed domain name deceptively and in order to cause confusion with the Complainant’s EVIAN trademark and its products, which cannot give rise to rights or legitimate interests on the Respondent’s part.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

### **C. Registered and Used in Bad Faith**

The Panel finds the Complainant's EVIAN mark to be both distinctive and well known, and that the Complainant offers products under the name "evian (re)new". The Respondent has provided no explanation for its choice of the disputed domain name, and in these circumstances the Panel can only infer that the Respondent registered the disputed domain name in the knowledge of the Complainant's trademark and product branding, and with the intention of profiting unfairly from the Complainant's commercial goodwill.

The Panel accepts the Complainant's contentions that Internet users are likely to believe that the disputed domain name is owned or operated by, or otherwise commercially affiliated with, the Complainant, while it in fact redirects to other websites, including those with pornographic content, from which the Respondent is likely to make commercial gain unfairly.

The Panel also finds that, given the inherently misleading nature of the disputed domain name, there is no conceivable use that the Respondent could make of the disputed domain name which would not infringe the Complainant's rights.

The Panel therefore finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel finds in the circumstances that the disputed domain name has been registered and is being used in bad faith.

### **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, <evianrenew.com>, be transferred to the Complainant.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: November 22, 2024