

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Eaux Minérales d'Evian (SAEME) v. Domain Privacy Case No. D2024-4322

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 Domain Privacy, Cyprus.

2. The Domain Name and Registrar

The disputed domain name <evianwater.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 22, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 23, 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, NameBrightPrivacy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 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 amendment to the Complaint on October 28, 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 November 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 26, 2024.

The Center appointed Philippe Gilliéron as the sole panelist in this matter on December 3, 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 under French law, and a subsidiary of Danone S.A., a global food and beverage group built on three businesses: essential dairy and plant-based products, waters and specialised nutrition. The Complainant distributes water from the source of Evian.

The Evian water history began in 1789 when the spring water source of Evian was discovered in the town of Evian-les-Bains. The first bottling facility opened in 1826, and Evian water became part of the Danone group in 1970. Today, Evian water is marketed on all five continents, in more than 140 countries across the world, with over 1.5 billion bottles of Evian water sold each year. The Complainant claims that in 2018, Evian was recognized as the number 1 premium spring water worldwide.

Since 2008, the Complainant has released exclusive limited editions of “haute couture” Evian water bottles, designed by iconic fashion designers, couturiers, stylists or fashion houses, including Christian Lacroix, Jean Paul Gaultier, Elie Saab, Kenzo, Alexander Wang, and Chiara Ferragni.

The Complainant holds numerous trademarks consisting in all or in part of the word “evian” on a worldwide basis, including:

- International word trademark EVIAN No. 235956, registered on September 24, 1960, duly renewed and covering goods in classes 32 and 33;
- International device trademark EVIAN No. 764050, registered on May 18, 2001, and covering goods in classes 3, 16, 18, 25, and 32;
- International device trademark EVIAN No. 860678, registered on June 6, 2005, and covering services in classes 41, 43 and 44;
- European Union (“EU”) device trademark EVIAN No. 001390558, registered on June 20, 2002, duly renewed and covering goods in classes 3, 5, and 32;
- EU word trademark EVIAN No. 001422716, registered on September 18, 2006, duly renewed and covering goods in classes 3, 18, and 32;
- United States of America (“US”) trademark EVIAN No. 1155024, registered on May 19, 1981, duly renewed and covering goods in class 32;
- US trademark EVIAN No. 5876639, registered on October 8, 2019, and covering goods in class 3.

The Complainant (along with Danone S.A. and the Danone group’s local subsidiaries) owns numerous domain names consisting of the mark EVIAN, including the domain name <evian.com> that was registered in 1997. According to the Complaint, the Complainant also owns, to name a few: <evian.be>, <evian.ca>, <evian.cn>, <evian.co.uk>, <evian.fr>, <evian.hk>, <evian.it>, <evian.jp>, <evian.mx>, <evian.sg> or <evian.us>.

The Complainant further owns numerous social pages dedicated to Evian on numerous social media platforms including Instagram, Twitter/X and Facebook.

On September 5, 2024, the Respondent registered the disputed domain name. The disputed domain name directs users to a website which presents various pay-per-click (“PPC”) links inciting users to visit a number of third-party commercial websites.

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 confusingly similar to its EVIAN trademark as it entirely incorporates such trademark and the addition of the term "water", which is merely descriptive, does not exclude the resulting likelihood of confusion.

The Complainant then affirms that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not affiliated with the Complainant and has never been authorized to use the EVIAN trademark in any way or to seek registration of any domain name incorporating such trademark. The Respondent is not commonly known under the disputed domain name and the worldwide renown of the EVIAN trademark makes it inconceivable that the Respondent could establish any rights or legitimate interests in the disputed domain name.

Finally, the Complainant is of the view that the disputed domain name was registered and is being used in bad faith. Taking into account the Complainant's well-known character, it is inconceivable that the Respondent could have been unaware of the Complainant's trademark at the time of registration of the disputed domain name in 2024. The redirection of users to a commercial website displaying PPC links demonstrates the Respondent's clear intent to obtain commercial gain from the disputed domain name; such use obviously amounts to a use in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "[...] decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

- (i) the disputed domain name is identical or confusingly similar to a trademark or a 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

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. The addition of the term “water” does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s trademark.

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.

Several UDRP panels have acknowledged the well-known character of the EVIAN trademark (*Société Anonyme des Eaux Minérales d’Evian (SAEME) v. Krebs and John Donetsky*, WIPO Case No. [D2024-2568](#); *Société Anonyme des Eaux Minérales d’Evian v. Whoissecure, Whoissecure / Goldengate Design; Toni Subaru; Liongate Design, NA; James Rodrigues, Wave Design; Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Temidire Folarin, N/A ; Alicia Pikyavit; Domain Administrator, See PrivacyGuardian.org / Waves Emirate; Phillip Olumide; Domain Administrator, See PrivacyGuardian.org / Steve Roberts; Sandra Robert; Privacy Service Provided by Withheld for Privacy ehf / Thomas walker; Oroki Yemi*, WIPO Case No. [D2022-0634](#); and *Société Anonyme des Eaux Minérales d’Evian (SAEME) v. Sungjun Cho*, WIPO Case No. [D2020-1597](#)). As a result, it is inconceivable that the Respondent would not have been aware of the EVIAN trademark when it deliberately chose to register the disputed domain name incorporating the said trademark.

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.

In the present case, the disputed domain name directs users to a website which presents various PPC links inciting users to visit a number of other third-party commercial websites, including a link to a website offering products within the same business sector as the Complainant. The Panel finds that the use of a confusingly similar domain name to display third-party commercial hyperlinks demonstrates the Respondent's intention to obtain commercial gain and is evidence of bad faith under paragraph 4(b)(iv) of the Policy.

The Respondent, which did not participate in these proceedings, did not demonstrate otherwise.

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 <evianwater.com> be transferred to the Complainant.

/Philippe Gilliéron/

Philippe Gilliéron

Sole Panelist

Date: December 10, 2024