

ADMINISTRATIVE PANEL DECISION

Exel Industries, Hozelock Limited v. Li Dandan
Case No. D2024-4341

1. The Parties

The Complainants are Exel Industries, France and Hozelock Limited, United Kingdom, represented by Domgate, France.

The Respondent is Li Dandan, China.

2. The Domain Name and Registrar

The disputed domain name <hozelocksoldes.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 22, 2024. On October 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 22, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 22, 2024.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on November 27, 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 Complaint has been submitted by two Complainants (hereafter, collectively: “Complainant”). The first Complainant, Exel Industries, is a French manufacturer of agricultural machinery and equipment established in 1952. Exel Industries acquired the second Complainant, Hozelock Limited, in 2012. Hozelock Limited is an English manufacturer of gardening equipment established in 1959 and the owner of trademarks in HOZELOCK, amongst which:

United Kingdom Trademark No. UK00000867384, registered on July 29, 1964, in International Class 17;

International Trademark No. 1115613, registered on February 21, 2012, in International Classes 6, 7, 8, 9, 11, 12, 17, 20, and 21, with the following designated jurisdictions: Australia, China, Egypt, European Union, Russian Federation, Ukraine, and United States of America “United States”; and

United Kingdom Trademark No. UK00002610837, registered on July 27, 2012, in International Classes 6, 7, 8, 9, 11, 12, 17, 20, and 21.

In addition, the first Complainant owns many domain names containing the HOZELOCK trademark, amongst which <hozelock.com>, <hozelock.fr>, <hozelock.co.uk>, <hozelockwatering.com>, <shop-hozelock.com> and <hozelocktrade.com>. The first two domain names are used for the official website of the Complainant, the latter provided in French.

The disputed domain name was registered on May 30, 2024, well after the second Complainant secured rights in the mark HOZELOCK. The disputed domain name resolves to a look-a-like website of the official French website of the Complainant. The look-a-like website prominently features the same “Hozelock” logo containing the HOZELOCK trademark in the left corner of the website. Furthermore, the website design is very similar to that of the official HOZELOCK website, featuring the same yellow and blue color scheme and product images that appear to have been copied from the official HOZELOCK website. Moreover, the website offers for sale purported HOZELOCK products at discounted prices. Finally, the contact provided on the contact page of the disputed domain name is an address in French Lick, Indiana, United States.

The Respondent appears to be a private individual with an address in Jining, Shandong Province, China.

The legal representative of the Complainant issued cease-and-desist notices to the Registrar and the website hosting provider, requesting them to forward these to the Respondent, on June 19, 2024. Subsequent reminders were sent on July 16, August 16, and August 23, 2024. However, the Complainant did not receive any response from the Respondent.

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.

With respect to the first element, the Complainant contends that it has rights in the mark HOZELOCK and that the disputed domain name is confusingly similar to this mark. The disputed domain name wholly incorporates the well-known HOZELOCK mark and the only difference is the addition of the generic term “soldes”, which is French for “sale”. Furthermore, the Complainant notes, the generic Top-Level Domain (“gTLD”) “.com” is irrelevant in determining the similarity of the disputed domain name with a trademark.

Regarding the second element, the Complainant claims that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant notes that the Respondent did not respond to the cease-and-desist notices issued by the Complainant. Furthermore, the use of the domain name for a commercial website that looks like an official HOZELOCK website is not a noncommercial use of the domain name, according to the Complainant. Moreover, the Complainant confirms that they never authorized the Respondent to use its trademarks in any way. Finally, the Complainant claims that, to the best of their knowledge, the Respondent is not the owner of any HOZELOCK trademark and is not known by the disputed domain name either.

As to bad faith registration, the Complainant claims that the Respondent must have been aware of the Complainant's HOZELOCK mark due to its well-known character and reputation and the fact that it was used in its entirety in the disputed domain name. In further support of this claim, the Complainant also points to the fact that the disputed domain name is used for a website that imitates the Complainant's official website. Moreover, the use of copyright © and registered trademark ™ signs on the look-a-like website demonstrates according to the Complainant that the Respondent knows something about trademarks and copyright.

In respect of bad faith use, the Complainant notes that by using the disputed domain name for a look-a-like website of the Complainant's French official HOZELOCK website, the Respondent has intentionally attempted to attract Internet users to this website for commercial gain, by creating a likelihood of confusion with the Complainant's mark as to the source of the website and the products on it (Paragraph 4(b)(vi) of the Policy). The website is clearly counterfeit, the Complainant claims, since parts of it are still in English rather than French, as if the Respondent forgot to translate the whole website into French. Furthermore, the Complainant notes, the Respondent is based in China while, according to the Contact page of the look-a-like website, the owner of the website is based in French Lick, Indiana, United States. Another anomaly pointed out by the Complainant is the use of the Euro as currency while neither China nor the United States use this.

B. Respondent

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

6. Discussion and Findings

A. Consolidation of the Complaint

The Panel notes that the Complaint was filed by two Complainants. The Panel is therefore required to decide whether it will permit this consolidation of the Complaint (Paragraph 10(e) of the UDRP Rules).

The Panel finds that the Complainants have a common grievance against the Respondent since it appears from the evidence on record that the first Complainant, Exel Industries, (ultimately) owns the second Complainant, Hozelock Limited. Moreover, the evidence indicates that the second Complainant owns the HOZELOCK trademarks that this Complaint relies on and the first Complainant owns the domain names that resolve to the official HOZELOCK website impersonated by the website that the disputed domain name resolves to. Finally, considering these facts and the Respondent's failure to submit any response to the Complaint, the Panel believes that it would be equitable and procedurally efficient to permit the consolidation.

Accordingly, the Panel permits the consolidation of the Complaint.

B. 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 the trademark HOZELOCK 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 another term, here “soldes”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

Finally, as for the applicable gTLD “.com”, the Panel holds that this can be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the first element of the Policy has been established.

C. 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 that the Respondent has not made a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name resolves to a look-a-like website of the Complainant’s French official HOZELOCK website, which purports to offer discounted HOZELOCK products. The look-a-like website prominently features the same “Hozelock” logo containing the HOZELOCK trademark in the left corner of the website. Furthermore, the website design is very similar to that of the official HOZELOCK website, featuring the same yellow and blue color scheme and product images that appear to have been copied from the official HOZELOCK website. This kind of use of the disputed domain name does not represent a bona fide offering and does not support rights or legitimate interests in the disputed domain name.

Moreover, Panels have held that the use of a domain name for illegitimate activity, here claimed impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Finally, the Complainant confirmed that they have not licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant’s trademarks. The Panel has taken note of the Complainant’s confirmation in this regard and has not seen any evidence that would suggest the contrary. In

the absence of any license or permission from the Complainant to use its trademarks, the composition of the disputed domain name, and the fact that the disputed domain name resolves to a look-a-like version of the Complainant's French website, no actual or contemplated bona fide or legitimate use of the disputed domain name could reasonably be claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#); and *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

The Panel finds the second element of the Policy has been established.

D. 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 intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's marks (Paragraph 4(b)(iv) of the Policy). The disputed domain name resolves to a look-a-like website of the Complainant's French official HOZELOCK website, which purports to sell HOZELOCK products at discounted prices. These circumstances, in combination with the Respondent's clear absence of rights or legitimate interests in the disputed domain name, are strong indicators of bad faith.

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 believes that the Respondent knew or, at least, should have known at the time of registration that the disputed domain name included the Complainant's HOZELOCK trademark. As demonstrated by the Complainant, the HOZELOCK trademarks were registered many years before the registration of the disputed domain name in several countries including China, the country of residence of the Respondent according to the WhoIs records. Furthermore, the disputed domain name incorporates the HOZELOCK trademark in its entirety and includes the descriptive term "soldes", which is French for "sales" and implies that the disputed domain name leads to a website where consumers can shop for HOZELOCK products at a discount. Moreover, the disputed domain name resolves to a look-a-like website of the Complainant's French official HOZELOCK website. Without the Complainant's permission, the Respondent has used the Complainant's branding and trademarks on this website, creating a website that closely resembles the Complainant's French official HOZELOCK website. This indicates that the Respondent had the Complainant and its trademarks in mind when registering the disputed domain name. The Respondent's knowledge of the Complainant and its trademarks and therefore its registration in bad faith of the disputed domain name may accordingly be inferred from these circumstances. [WIPO Overview 3.0](#), section 3.2.2.

Furthermore, panels have held that the use of a domain name for illegitimate activity, here claimed impersonation/passing off of the Complainant, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Finally, the fact that the Respondent did not respond to the cease and desist notices and reminders which the Complainant sent to the Respondent and failed to submit a response in these proceedings, further supports a finding of bad faith (see *Awesome Kids LLC and/or Awesome Kids L.L.C. v. Selavy Communications*, WIPO Case No. [D2001-0210](#)).

Accordingly, 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 <hozelocksoldes.com> be transferred to the Complainant.

/Benoit Van Asbroeck/

Benoit Van Asbroeck

Sole Panelist

Date: December 11, 2024