

ADMINISTRATIVE PANEL DECISION

SQLI v. Mohamed Aymen Jouini
Case No. DAI2023-0049

1. The Parties

The Complainant is SQLI, France, represented by Plasseraud IP, Spain.

The Respondent is Mohamed Aymen Jouini, France.

2. The Domain Name and Registrar

The disputed domain name <sql.ai> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 5, 2023, the Registrar transmitted by email to the Center its verification response:

- (a) confirming the disputed domain name is registered with it;
- (b) confirming the language of the registration agreement is English; and
- (c) 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 December 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 15, 2024.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on January 22, 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.

The Panel notes that the Respondent's contact details as disclosed by the Registrar corresponded to a privacy service, and in accordance with paragraphs 10 and 12 of the Rules, on February 22, 2023 the Panel issued a Procedural Order requesting that the entity related to the proxy service provider disclose the full contact details of the registrant behind the privacy service.¹ On March 5, 2024, in response to Procedural Order No. 1 the entity related to the proxy service provider provided to the Center registrant and contact information for the disputed domain name which differed from the named Respondent (i.e.: Registration Private, Domains by Proxy, LLC). In accordance with Procedural Order No. 1 the Center sent an email communication to the Complainant on March 7, 2024, providing the registrant and contact information for the underlying registrant behind the privacy service (i.e.: Mohamed Aymen Jouini) and inviting the Complainant to submit any further arguments in view of the disclosure of an underlying registrant, and the Respondent to comment on any such submission by the Complainant. The Complainant filed an amended Complaint on March 12, 2024. No communication was received from the Respondent.

4. Factual Background

The Complainant is a digital services company headquartered in France. It was first established some 30 years ago and provides services in the fields of e-commerce, experience platforms, data and insights, digital marketing and design and digital consulting. Its clients include Airbus, Nestlé, Carlsberg, L'Oreal, Bridgestone, Louis Vuitton Moët Hennessy, Carrefour, and Adidas.

The Complainant currently employs of 2,000 people, has offices in 13 countries and in 2022 generated revenues of some EUR 246 million.

The Complainant promotes its services from, amongst other things, a website at "www.sqli.com". According to the Complaint, the Complainant holds a portfolio of 155 other domain names consisting of, or including, SQLI.

The Complaint includes evidence that the Complainant owns numerous registered trademarks around the world for SQLI. For present purposes, it is sufficient to note:

- (a) International Registration No. 744697, which was registered on October 19, 2000 in respect of a range of software design and data management services in International Classes 35, 41 and 42 and designating Benelux, Germany, Italy, Morocco, Spain, Switzerland, and the United Kingdom;
- (b) International Registration No. 1578568, which was registered on October 6, 2020, in respect of a wide range of services in International Classes 35, 38, 41, and 42 and designating amongst others the European Union; and.
- (c) United States Registered Trademark No. 6733731, which was registered in the Principal Register on May 24, 2022 in respect of a range of services in International Class 42 including computer software design, development and maintenance services, cloud computing services, technical consulting services and design services.

The disputed domain name was registered on February 14, 2023.

¹ If further information was provided by the entity related to the proxy service provider, Procedural Order No. 1 included (a) an invitation for the Complainant to submit an amended Complaint with any further comments in light of the further information and (b) an opportunity for the Respondent to respond to the amended Complaint.

It resolves to a website provided by GoDaddy through Afternic at which the disputed domain name is offered for sale for USD 10,000,000.

5. Discussion and Findings

No response has been filed. The Complaint and Written Notice have been sent, however, to the Respondent at the electronic and physical coordinates confirmed as correct by the Registrar in accordance with paragraph 2(a) of the Rules. In addition, the underlying registrant disclosed pursuant to Procedural Order No. 1 has been given a further opportunity to comment on the amended Complaint sent by the Complainant on March 12, 2024. Despite these opportunities, the Respondent did not participate in this proceeding. Bearing in mind the duty of the holder of a domain name to provide and keep up to date correct Whois details, therefore, the Panel finds that the Respondent has been given a fair opportunity to present his or its case.

When a respondent has defaulted, paragraph 14(a) of the Rules requires the Panel to proceed to a decision on the Complaint in the absence of exceptional circumstances. Accordingly, paragraph 15(a) of the Rules requires the Panel to decide the dispute on the basis of the statements and documents that have been submitted and any rules and principles of law deemed applicable.

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain name, the Complainant must demonstrate each of the following:

- (i) the disputed 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 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 first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

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.

In undertaking the comparison between the Complainant's trademark rights and the disputed domain name, it is permissible in the present circumstances to disregard the country code Top Level Domain ("ccTLD") component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

Disregarding the ".ai" ccTLD, the disputed domain name is identical to the Complainant's registered trademarks for SQLI.

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

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

While 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 often impossible 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. 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 registered the disputed domain name well after the Complainant began using its trademark and also after the Complainant had registered its trademark.

The Complainant states that it has not authorised the Respondent to use the disputed domain name. Nor is the Respondent affiliated with it.

So far as the record in this proceeding reveals, the disputed domain name is not derived from the Respondent's name. Nor is there any suggestion of some other name by which the Respondent is commonly known from which the disputed domain name could be derived. From the available record, the Respondent does not appear to hold any trademarks for the disputed domain name.

The Complainant also points out that the disputed domain name carries a high risk of implied affiliation with the Complainant. In this connection, the Complaint includes evidence that all the results on the first page of a Google search are all for the Complainant and its services.

Further, the Complainant also points to what the Complainant describes as the “outrageous price” at which the disputed domain name is being offered for sale.

It must be acknowledged that the second-level domain of the disputed domain name consists of only four letters and could be seen as an acronym. It has long been recognized under the Policy that “short” domain names may have an intrinsic value by virtue of their length. But, the right to register such domain names is not unlimited. If it appears that the disputed domain name has been registered to take advantage of its trademark significance, it is much less likely to qualify the registrant as having rights or a legitimate interest in the domain name. As the panelist explained in *ETH Zürich (Eidgenössische Technische Hochschule Zürich) v. Andre Luiz Silva Rocha, Construtora Norberto Odebrecht S/A*, WIPO Case No. [D2016-0444](#):

“The Panel accepts that the right to register such acronyms cannot be unlimited. Knowing of a complainant's trademark, registering a domain name to copy the trademark or using it to trade off it or to target the trademark owner or act inappropriately towards it must put the registrant in a different position and put at risk

its claim to have a right or legitimate interest in the domain name. But in the absence of such factors, and none are present in this case (as to which see further below) the registrant has as much right as anyone else to use expressions such as acronyms, generic, dictionary words or other domain names made up from a small number of letters.”

In the present case, the Panel considers it is more likely that the disputed domain name was registered with knowledge of the Complainant’s trademark and to take advantage of its correspondence to the Complainant’s trademark. A number of factors lead the Panel to that conclusion.

First, this is not a case where there is evidence that the Respondent operates or is associated with someone operating under the acronym or a name from which the acronym could be derived.

Secondly, there is no evidence before the Panel that the Respondent holds any other “short” domain names or has a history of trading in such domain names.

Thirdly, as a corollary to the first two points, despite the Complaint being notified to the co-ordinates confirmed as correct by the Registrar and the Respondent being given an opportunity to comment on the amended Complaint received on March 12, 2024, the Respondent has not sought to explain his motivations for registering the disputed domain name.

Fourthly, although the disputed domain name is short, it is a rather unusual sequence of letters and, as the Complainant contends, appears to carry a strong risk of (at least) implied affiliation. That risk is further compounded since “.ai”, while formally constituting the ccTLD for Antigua, is much used by those interested in artificial intelligence (“AI”) applications – a field in which the Complainant is particularly involved.

Fifthly, the disputed domain name is being offered for sale at a very high price. As with other matters, the Respondent has not sought to explain how that price has been determined. On the other hand, there are a number of published reports about the prices which have been achieved for the sale of domain names during 2023. These reveal the following:²

Domain name	Price (USD)
ai.com	11 million
help.com	3 million
max.com	1.8 million
hurt.com	1.5 million
you.ai	700,000

A price for a domain name in the range of USD 10 million, therefore, is not totally unheard of but appears to be rare. In the absence of explanation from the Respondent and having regard to the other factors referred to above, the Panel considers it more likely that the price has been proposed as a result of its correspondence to the Complainant’s trademark and the Complainant’s presumed ability to pay for the perceived value. That is, it appears more likely than not that the Respondent has registered the disputed domain name to take advantage of its trademark significance rather than in pursuit of a good faith business buying and selling domain names.

These matters, taken together, are sufficient to establish a prima facie case under the Policy that the Respondent has no rights or legitimate interests in the disputed domain name. The basis on which the Respondent has adopted the disputed domain name, therefore, calls for explanation or justification. The Respondent, however, has not sought to rebut that prima facie case or advance any claimed entitlement.

² Randy A Brown, ‘Most expensive Domain Names Sold in 2023’, <https://verpex.com/blog/hosting-service-explained/most-expensive-domain-names-sold-in-2023>. See also Namebio, ‘Top 100 Domain Name Sales of 2023’ <https://namebio.com/top-100-domain-name-sales-2023> and DN Journal ‘Our 2023 Top 100 Domain Sales Charts Have Been Finalized With Arrival of Year’s Last Batch of Data’ <https://www.dnjournal.com/ytd-sales-charts.htm>; neither of which reports the sale of ai.com.

Accordingly, the Panel finds the Complainant has established the second requirement under the Policy also.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent: see e.g., *Burn World-Wide, Ltd. d/b/a BGT Partners v. Banta Global Turnkey Ltd*, WIPO Case No. [D2010-0470](#).

Paragraph 4(b) identifies situations which may demonstrate that registration or use of a disputed domain name was not in bad faith under the Policy. The Complainant invokes the first two sub-paragraphs:

“(i) circumstances indicating that [the Respondent] has registered or [the Respondent has] acquired the [disputed] domain name primarily for the purpose of selling, renting, or otherwise transferring the [disputed] domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of [the Respondent’s] documented out-of-pocket costs directly related to the [disputed] domain name; or

(ii) [the Respondent has] registered the [disputed] domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the Respondent has] engaged in a pattern of such conduct; or”.

The reasons leading to the Panel’s finding that the Respondent has no rights or legitimate interests in the disputed domain name also lead to acceptance of the Complainant’s contentions under this requirement also.

Accordingly, the Complainant has established all three requirements under the Policy.

6. 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 <sql.ai> be transferred to the Complainant.

/Warwick A. Rothnie/
Warwick A. Rothnie
Sole Panelist
Date: March 18, 2024