

ADMINISTRATIVE PANEL DECISION

Groupe Adeo v. Benton Mr., Wise Solutions
Case No. DCC2024-0013

1. The Parties

The Complainant is Groupe Adeo, France, represented by Nameshield, France.

The Respondent is Benton Mr., Wise Solutions, United States of America.

2. The Domain Name and Registrar

The disputed domain name <leroymerlin-partner.cc> is registered with Gname.com Pte. Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 23, 2024. On May 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 24, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 24, 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 the first amended Complaint on May 24, 2024 and filed the second amended Complaint on May 31, 2024.

The Center verified that the Complaint together with the amended Complaints 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 June 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 26, 2024.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on July 5, 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

Groupe Adeo (the “Complainant”) is a French company specializing in the sale of articles for the home and DIY for individuals and professionals. Its pioneering company is Leroy Merlin, created in 1923 and at present the leading DIY retailer in France with 30,000 employees and 144 stores.

The Complainant is the owner of several registered trademarks consisting of the terms “leroy merlin”, including the international trademark LEROY-MERLIN n° 591251, registered since July 15, 1992; international trademark LEROY MERLIN n° 701781, registered since August 14, 1998; European trademark LEROY MERLIN n° 10843597, registered since December 7, 2012; and European trademark LEROY MERLIN n° 11008281, registered since October 2, 2013.

The Complainant is also the owner of numerous domain names comprising the trademark LEROY MERLIN, such as the domain name <leroymerlin.fr> registered on September 12, 1996 which houses its official website.

The disputed domain name was registered on May 15, 2024, and points to a login page displaying the Complainant’s semi-figurative LEROYMERLIN trademark.

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. The Complainant asserts its rights over the trademarks LEROY MERLIN based on the above referenced registrations and recognition to that effect by previous Panels.

The Complainant contends that the disputed domain name is confusingly similar to its LEROY MERLIN registered trademarks. It asserts that the addition of the generic term “partner” is not sufficient to escape a finding that the disputed domain name is confusingly similar to its registered trademark LEROY MERLIN. The Complainant maintains that the addition does not change the overall impression of the disputed domain name as being connected to the Complainant’s trademark LEROY MERLIN and does not prevent confusion.

In any case, the Complainant says, it is well established that a domain name that wholly incorporates a registered trademark is sufficient to establish confusing similarity.

The Complainant further contends it is required only to make out a prima facie case that the Respondent lacks rights or legitimate interests. The Respondent then carries the burden of demonstrating rights or legitimate interests in the disputed domain name. The Complainant asserts that the Respondent is not identified in the Whois database by the disputed domain name and can thus not be said to be commonly known by the disputed domain name or some part of it.

The Complainant did not license nor authorize the Respondent to make any use of its trademark LEROY MERLIN, or apply for registration of the disputed domain name. Moreover, the Complainant says that the disputed domain name points to a login page displaying the Complainant’s trademark which could be used to collect personal information of the Complainant’s partners or customers. Thus, the Respondent’s website cannot be considered as a bona fide offering of services or fair use.

The Complainant points out that the disputed domain name was registered several years after the registration of the trademark LEROY MERLIN, and in any case a Google search of “LEROY MERLIN PARTNER” displays results related to the Complainant’s subsidiary. Moreover, the website displays the

Complainant's semi-figurative trademark and points to a login page displaying the Complainant's semi-figurative trademark. The Complainant asserts that the said website does not contain any information about the Respondent and hence, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his websites (par. 4(b)(iv) of the Policy). The Respondent is able to collect personal information through this website, namely user's phone numbers and passwords, the Complainant says.

B. Respondent

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

6. Discussion and Findings

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 mark by way of multiple registrations as referenced above 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. Although the addition of the term "partner" may bear on the assessment of the second and third elements, the Panel finds the addition does not here 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).

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.

Panels have held that the use of a domain name for illegal or fraudulent activity, in this case attempting to gather personal information by establishing a website to which a deceptively suggestive domain name

resolves that allows personal information to be filched from consumers, can never confer rights or legitimate interests on a respondent.

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.

In the present case, the Panel notes that the Respondent has registered a domain name that incorporates the highly distinctive and well-reputed trademark of the Complainant in its entirety. It is inconceivable that this happened by coincidence and simple searches easily establish the Complainant's exclusive trademark rights in any case. The composition of the disputed domain name further reinforces this conclusion, with the deliberate inclusion of the misleading term "partner". The subsequent use by the Respondent of the disputed domain name, pointing to a website on which a replica of its figurative trademark appears, and where personal information is solicited from internet users, amounts to use in bad faith. It appears likely that the disputed domain name was registered with the deliberate purpose of establishing this illicit mechanism.

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 <leroymerlin-partner.cc> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: July 19, 2024