

ADMINISTRATIVE PANEL DECISION

Aegon N.V. v. Lamine Kone
Case No. DNL2023-0020

1. The Parties

The complainant is Aegon N.V., Netherlands (Kingdom of the) (the “Complainant”), represented by Chiever B.V., Netherlands (Kingdom of the).

The registrant of the disputed domain name is Lamine Kone, United Kingdom (the “Respondent”).

2. The Domain Name and Registrar

The disputed domain name <aegon-nv.nl> (the “Disputed Domain Name”) is registered with SIDN through EuroDNS S.A.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 19, 2023. On July 20, 2023, the Center transmitted by email to SIDN a request for registrar verification in connection with the Disputed Domain Name.

On July 21, 2023, SIDN 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 and contact information in the Complaint.

The Center sent an email communication to Complainant on July 24, 2023, providing the information disclosed by SIDN, and inviting Complainant to amend the Complaint in this light. Complainant filed an amended Complaint on July 26, 2023.

The Center verified that Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified Respondent of the Complaint and the proceedings commenced on July 27, 2023. In accordance with the Regulations, article 7.1, the due date for Response was August 16, 2023. The Center did not receive any response. Accordingly, the Center notified Respondent’s default on August 17, 2023.

The Center appointed Moïra Truijens as the panelist in this matter on August 31, 2023. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

Complainant Aegon N.V. is an integrated, diversified financial services group that offers savings and protection solutions for customers worldwide. Aegon has been active in the financial sector for decades and serves approximately 30 million customers in numerous countries, with approximately 900 billion of revenue-generating investments.

Complainant is owner of the following trademark registrations:

- Benelux wordmark AEGON, registration number 155121, registered on December 1, 1987;
- Benelux word/device mark, registration number 937139, registered on August 12, 2013;
- Benelux word/device mark, registration number 1467247, registered on September 21, 2022.

Besides the above-mentioned Benelux trademarks (the “Trademarks”), Complainant owns multiple other AEGON trademark registrations in countries around the world, all of which are registered for business, insurance, finance and related services. Additionally, “AEGON” is also the trade name of Complainant, which it has been since May 23, 1969.

The Disputed Domain Name was registered on September 22, 2022. At the time of filing of the Complaint and at the time of the Decision, the Disputed Domain Name resolved to a website with pay-per click links which display links to: a “financial advisor for investment”, a “life insurance company” and a “web trading platform”.

5. Parties’ Contentions

A. Complainant

Complainant contends that the prefix “aegon” of the Disputed Domain Name is identical to the Trademarks and to its trade name AEGON. Furthermore, it claims that the adjunct “NV” of the Disputed Domain Name refers to Complainant’s legal entity.

Complainant asserts that the Disputed Domain Name is confusingly similar to the Trademarks and the trade name AEGON, in combination with the legal entity “NV”, as it reproduces these in its entirety adding only the non-distinguishing country code Top-Level Domain (“ccTLD”) “.nl”.

It further claims that Respondent has no rights to or legitimate interests in the Disputed Domain Name. Respondent is using the name AEGON in the Disputed Domain Name, while they do not own any trademark rights to the name AEGON. Complainant has no connection or affiliation of any kind with Respondent, nor has Complainant ever granted Respondent a license or consent, express or implied, to use the Trademarks or a similar sign in any manner.

According to Complainant, Respondent does not use the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of services, nor is Respondent known by the Disputed Domain Name. While the party behind the Disputed Domain Name offers pay-per click asset management advertisement and as such it is in direct competition with Complainant’s services, there has never been any kind of cooperation between them and Respondent, nor has the Disputed Domain Name ever been owned by a party that was known by or affiliated to Complainant.

Complainant consequently submits that the Disputed Domain Name should be considered as having been registered and used in bad faith by Respondent. The Disputed Domain Name is identical to the Trademarks and because of the reputation and distinctiveness of the word AEGON, it is evident that Respondent registered the Disputed Domain Name with full knowledge of Complainant and its rights in the Trademarks. If Respondent would have done some basic prior rights checks at the time that it registered the Disputed Domain Name, it could have easily found the Trademarks.

Lastly, Complainant asserts that by registering and using the Disputed Domain Name, Respondent intentionally attempted to attract Internet users to its website for commercial gain. By using a domain name that offers pay-per click asset management advertisement, Respondent has intentionally created a likelihood of confusion with the Trademarks as to the source of Respondent's website.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Pursuant to article 2.1 of the Regulations, Complainant must prove each of the following three elements:

a. the Disputed Domain Name is identical or confusingly similar to:

I) a trademark, or trade name, protected under Dutch law in which Complainant has rights; or

II) a personal name registered in the General Municipal Register ("Gemeentelijke Basisadministratie") of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which Complainant undertakes public activities on a permanent basis; and

b. Respondent has no rights to or legitimate interests in the Disputed Domain Name; and

c. the Disputed Domain Name has been registered or is being used in bad faith.

In accordance with article 10.3 of the Regulations, the Panel shall determine the admissibility, relevance and weight of the evidence submitted; if no response has been submitted, the Panel shall rule on the basis of the complaint; and the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or fact.

A. Identical or Confusingly Similar

Complainant has shown registered rights in the Trademarks. The Disputed Domain Name is confusingly similar to the Trademarks as it incorporates AEGON in its entirety. The addition of a hyphen and of the letters "nv" to the Trademarks in the Disputed Domain Name do not alter the fact that the Trademarks are recognizable in the Disputed Domain Name (see also WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.7).¹

The ccTLD ".nl" is typically disregarded under the confusing similarity test, since it is a technical registration requirement (see [WIPO Overview 3.0](#), section 1.11).

The Panel finds that the Disputed Domain Name is confusingly similar to the Trademarks and that Complainant has thus established the first element of article 2.1 of the Regulations.

B. Rights or Legitimate Interests

A complainant bears the burden of *prima facie* showing that the respondent has no rights to or legitimate interests in the domain name. If a complainant succeeds in making a *prima facie* case, the burden of production shifts to the respondent, which will then have to come forward with appropriate allegations or

¹ In view of the fact that the Regulations are to an extent based on the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

evidence demonstrating a right to or legitimate interest in the domain name (*Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Article 3.1 of the Regulations provides circumstances in which such rights or legitimate interests to a domain name may be demonstrated. These circumstances include; i) use of the domain name in connection with a *bona fide* offering of goods or services; ii) being commonly known by the domain name; and iii) making legitimate noncommercial or fair use of the domain name.

Based on the evidence and the undisputed submissions of Complainant, the Panel concludes that Respondent has not received Complainant's consent to use the Trademarks as part of the Disputed Domain Name, nor that it has otherwise been authorized to use the Trademarks.

Respondent has not provided evidence, nor is there any indication in the record of this case that Respondent is commonly known by the Disputed Domain Name.

Respondent did not demonstrate any use or demonstrable preparation to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services.

Finally, in the circumstances of this case, the Panel finds that a lack of rights to or legitimate interests in the Disputed Domain Name on the part of Respondent is further supported by the fact that no response was filed by Respondent.

The Panel concludes that Complainant has met the second requirement of article 2.1(b) of the Regulations.

C. Registered or Used in Bad Faith

In accordance with article 3.2 of the Regulations, Complainant has to show that the Disputed Domain Name was registered or is being used in bad faith. Several circumstances put forward by Complainant make that the Panel finds that this is so.

When Respondent registered the Disputed Domain Name, the Trademarks had already been registered and were being used by Complainant for its products and services. Given the well-known character of the Trademarks, the Panel finds that at the time of registration of the Disputed Domain Name, Respondent knew or should have known that it would be confusingly similar to the Trademarks.

With respect to the use of the Disputed Domain Name, at the time the Complaint was filed, the Disputed Domain Name was resolving to a pay-per-click website. The Panel therefore concludes that Respondent has intentionally attempted to attract Internet users, for commercial gain, to the Website by creating a likelihood of confusion with Complainant's Trademarks as to the source, sponsorship, affiliation, or endorsement of Respondent's website.

Respondent clearly registered and uses the Disputed Domain Name to mislead Internet users and derive a financial benefit. Such use of the Disputed Domain Name can only amount to an act of bad faith.

The Panel concludes that the requirement of article 2.1(c) of the Regulations has also been met.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Disputed Domain Name <aegon-nv.nl> be transferred to Complainant.

/Moira Truijens/

Moira Truijens

Panelist

Date: September 13, 2023