

ADMINISTRATIVE PANEL DECISION

Uitvaartverzorging Twan Schreurs V.O.F. v. Patrik Muller
Case No. DNL2024-0035

1. The Parties

The Complainant is Uitvaartverzorging Twan Schreurs V.O.F., Netherlands (Kingdom of the), represented by Twan Schreurs, Netherlands (Kingdom of the).

The registrant of the disputed domain name is Patrik Muller, Switzerland, (the “Respondent”).

2. The Domain Name and Registrar

The disputed domain name <uitvaartverzorgingtwanschreurs.nl> is registered with SIDN through Internet Domain Service BS Corp.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 29, 2024. On July 29, 2024, the Center transmitted by email to SIDN a request for registrar verification in connection with the disputed domain name.

On July 30, 2024, 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 the Complainant on July 30, 2024, providing the information disclosed by SIDN, and inviting the Complainant to amend the Complaint in this light. The Complainant filed an amended Complaint on July 31, 2024.

The Center verified that the 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 the Respondent of the Complaint and the proceedings commenced on August 2, 2024. In accordance with the Regulations, article 7.1, the due date for Response was August 22, 2024. The Center did not receive any response. Accordingly, the Center notified the Respondent’s default on August 23, 2024.

The Center appointed Willem J. H. Leppink as the panelist in this matter on September 9, 2024. 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

The following facts are undisputed.

The Complainant, a partnership under the laws of the Netherlands¹, is a funeral company doing business as "Uitvaartverzorging Twan Schreurs". The business is active since 2010 and is operated by the partnership since 2017.

The disputed domain name, registered on April 26, 2024, resolves to a website which under the heading Uitvaartverzorging Twan Schreurs (in English: Funeral Care Twan Schreurs), refers to "the importance of trust and honesty in a relationship" and sex workers, including images.

No specific information is known about the Respondent, except for the information provided by SIDN..

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Regulations for a transfer of the disputed domain name.

Notably, the Complainant contends the following:

The content of the website to which the disputed domain name resolves is very harmful to the Complainant. Families of deceased will avoid calling the Complainant when they see the content of the website to which the disputed domain name resolves. The content of this site has totally nothing to do with the funeral business. It is damaging the good name of the Complainant.

On July 21, 2024, the Complainant sent an email about the disputed domain name registration to the Respondent, but this communication was not answered.

B. Respondent

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

6. Discussion and Findings

Pursuant to article 2.1 of the Regulations the 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 the Complainant has rights; or
 - II) a personal name registered in the General Municipal Register (Gemeentelijke Basisadministratie) of a

¹ "The Netherlands" in this decision refers to one of the four constituent countries of Netherlands (Kingdom of the) and its distinct legal system.

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 the Complainant undertakes public activities on a permanent basis; and

- b) the 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

Pursuant to article 10.3 of the Regulations, the panelist shall determine the admissibility, relevance and weight of the evidence submitted. If no response has been submitted, the panelist shall rule on the basis of the complaint. The complaint shall in that event be granted, unless the panelist considers it to be without basis in law or in fact.

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 Edition², ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown that it has rights in the trade name *Uitvaartverzorging Twan Schreurs* as it has submitted un rebutted evidence of the use of such trade name.

The entirety of the trade name is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the UDRP and thus also for the purposes of the Regulations. [WIPO Overview 3.0](#), section 1.7.

The Complainant has thus established the first element of article 2.1 of the Regulations.

B. Rights or Legitimate Interests

Consistent with earlier decisions under the Regulations, the Complainant must prima facie demonstrate that the Respondent has no rights to or legitimate interests in the disputed domain name. If the Complainant succeeds in making out this prima facie case, the burden of production shifts to the Respondent, who will then have to come forward with appropriate allegations or evidence demonstrating a right to or legitimate interests in the disputed domain name (see *Auto 5 v. E. Shiripour*, WIPO Case No. [DNL2008-0027](#)).

The Respondent may demonstrate such rights or legitimate interests inter alia through any of the following circumstances based on article 3.1 of the Regulations:

- a) before having any notice of the dispute, the Respondent made 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
- b) the Respondent as an individual, business or other organization is commonly known by the disputed domain name; or
- c) the Respondent is making a legitimate noncommercial use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish or otherwise damage the relevant trademark, trade name, personal name, name of a Dutch public legal entity or name of an association or foundation located in the Netherlands.

² In view of the fact that the Regulations are in large part 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](#), are relevant to this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#))

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 Regulations or otherwise.

The disputed domain name reproduces the entirety of the Complainant's trade name, and thus such composition carries a high risk of implied affiliation and cannot constitute fair use. Moreover, it is inconceivable that the use of the disputed name domain name which includes the term "uitvaartverzorging" (meaning "funeral care" in Dutch) could be legitimately used for the purposes of promoting prostitution.

The Complainant has thus established the second element of article 2.1 of the Regulations.

C. Registered or Used in Bad Faith

In light of its considerations under Section 6.B, the facts presented by the Complainant, and the lack of a response by the Respondent, the Panel finds that the disputed domain name has been registered and is used in bad faith.

The Domain Name was registered long after the Complainant started operating its funeral company.

Considering the composition of the disputed domain name, it is inconceivable that the Respondent has not been aware of the existence of the Complainant and its trade name. The use of the disputed domain name to resolve to a website advertising escort services indicates that the disputed domain name was, more likely than not, registered and used for either obtaining undue commercial advantage created by the likelihood of confusion with the Complainant and/or to disrupt the Complainant's activities.

The case at hand is a blatant example of bad faith registration and use.

The Panel is thus satisfied that the third element of article 2.1 of the Regulations has been met and that the disputed domain name was registered and is being used in bad faith.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the domain name <uitvaartverzorgingtwanschreurs.nl> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Panelist

Date: September 23, 2024