Decision for dispute CAC-UDRP-102430

Case number	CAC-UDRP-102430
Time of filing	2019-04-02 08:10:54
Domain names	lesafre.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	LESAFFRE ET COMPAGNIE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Tims Dozman

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of following trademarks:

(a) The French trademark LESAFFRE® n° 3202372 registered since 2 January 2003;

(b) The Malaysian trademark LESAFFRE® n° 00002734 registered since 5 April 2003;

(c) The European trademark LESAFFRE GROUP® n° 003623097 registered since 21 January 2004;

(d) The International trademark LESAFFRE GROUP® n° 826663 registered since 4 February 2004;

(e) The Colombian trademark LESAFFRE® n° 13156927 registered since 3 July 2013;

("Complainant's Trademarks").

The Complainant is also the owner of many Internet domain names including the LESAFFRE distinctive wording such as the

domain name <lesaffre.com> registered since 1996.

The disputed domain name <lesafre.com> was registered on 11 September 2018 and is inactive.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

(a) As a global key player in yeasts and fermentation, the Complainant designs, manufactures and markets innovative solutions for Baking, Food taste & pleasure, Health Care and Biotechnology;

(b) the Complainant is the owner of the Complainant's Trademark;

(c) the Complainant owns various domain names including the same distinctive wording "LESAFFRE";

(d) the disputed domain name was registered on 11 September 2018; and

(e) under the disputed domain name there is an inactive website.

The Complainant seeks transfer of the disputed domain name to the Complainant

PARTIES CONTENTIONS

THE COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(i) disputed domain name is confusingly similar to Complainant's Trademarks;

(ii) disputed domain name is also a clear case of "typosquatting", i.e. the disputed domain name contains an obvious misspelling of the Complainant's Trademarks;

(iii) the Respondent is not affiliated with the Complainant nor authorized by it in any way to use Complainant's Trademarks. The Complainant does not carry out any activity for, nor has any business with the Respondent;

(iv) the website operated under the disputed domain name is inactive. The Complainant contends that there is no legitimate non-commercial or fair use of the disputed domain name;

(v) registering the disputed domain name with the misspelling of the Complainant's Trademarks was intentional attempt to create confusing similarity with the Complainant's Trademarks and thus the disputed domain name has been registered and is being used in bad faith.

THE RESPONDENT:

The Respondent did not provide any response to the complaint.

RIGHTS

The Panel concluded that the disputed domain name is confusingly similar to the Complainant's Trademark within the meaning of paragraph 4(a)(i) of the Uniform Domain Name Dispute Resolution Policy ("UDRP" or "Policy").

For details, please see "Principal Reasons for the Decision".

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

For details, please see "Principal Reasons for the Decision".

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

For details, please see "Principal Reasons for the Decision".

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or revoked:

(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.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in these proceedings.

RIGHTS

The disputed domain name is confusingly similar to Complainant’s Trademarks. It contains the principal distinctive element of Complainant's Trademarks "LESAFFRE" with the omission of one letter "F". Such slight spelling variation is not sufficient to avoid confusing similarity of disputed domain name to the Complainant’s Trademarks

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the UDRP.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP (please see, for example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name

(within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Panel believes that this case is a prima facie example of typosquatting (i.e. the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors) which is one of the model situations of bad faith registration / use of a domain name (paragraph 4(b)(iv) of the Policy). As numerous previous decisions have held, typosquatting as such is evidence of bad faith (please see, for example, WIPO Case No. D2011-1079 bwin.party services (Austria) GmbH v. Interagentur AG; WIPO Case No. D2002-0568, Go Daddy Software, Inc. v. Daniel Hadani; WIPO Case No. D2002-0423 Dell Computer Corporation v. Clinical Evaluations, or WIPO Case No. D2001-0970, Briefing.com Inc v. Cost Net Domain Manager).

As a result, the Panel found that the disputed domain name has been registered and used by the Respondent in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **LESAFRE.COM**: Transferred

PANELLISTS

Name	**Michal Matějka**

DATE OF PANEL DECISION 2019-05-02

Publish the Decision