

## Decision for dispute CAC-UDRP-104079

Case number **CAC-UDRP-104079**

Time of filing **2021-10-14 09:37:02**

Domain names **sobioeticc.com**

### Case administrator

Organization **Denisa Bilík (CAC) (Case admin)**

### Complainant

Organization **LEA NATURE SERVICES**

### Complainant representative

Organization **NAMESHIELD S.A.S.**

### Respondent

Name **mohamed amine loubiri**

#### OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

#### IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of the following trademarks:

- in France:
  - Combined trademark No. 3529601 – SO'BIO ETIC registered for Classes 3, 24 and 25 of the International Classification of Goods and Services (also known as the Nice Classification) with the priority date from 5 October, 2007.
- International Trademark registration:
  - Combined trademark No. 979254 - SO'BIO étic registered for Classes 3, 24 and 25 of the Nice Classification with the priority date from 22 May, 2008.

#### FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a French manufacturer of natural and organic goods producing a range of cosmetic and organic products under the name SO'BIO ÉTIC, which has been registered as a trademark in different countries of the world.

The Respondent is a natural person based in Morocco who registered the disputed domain name <sobioeticc.com> was on 9 September, 2021, e.i. more than 10 years after the first Complainant's trademark SO'BIO ÉTIC was registered.

The disputed domain name <sobioeticc.com> currently results to a webpage which appears under construction and on which no products offered for sale are shown.

According to the Complainant, the website to which relates the disputed domain name <sobioeticc.com> was previously used in connection with massage oil for men, i.e. with the goods of similar nature as the goods manufactured and distributed under the Complainant's trademark SO'BIO ÉTIC.

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#### PARTIES CONTENTIONS

##### PARTIES' CONTENTIONS:

##### COMPLAINANT:

Identical or confusingly similar

The Complainant argues that the disputed domain name <sobioeticc.com> and the Complainant's registered trademarks SO'BIO ÉTIC are confusingly similar.

Particularly, the Complainant contends that the disputed domain name <sobioeticc.com> is almost identical to the Complainant's registered trademarks and points out that the names at comparison differ only in one letter which is indicative of the Respondent's intention of "typosquatting".

The Complainant also points out that the applicable Top-Level suffix "-com" does not per se prevent the likelihood of confusion.

No rights or legitimate interests

The Complainant argues that there is no evidence at all that the Respondent is commonly known by the disputed domain name or a name corresponding to the disputed domain name, nor that the Respondent is making a bona fide offering of goods or services. Moreover, the Complainant states that the Respondent has not been licensed or otherwise authorized to use any of the Complainant's trademarks nor to apply for or use any domain name incorporating such trademarks.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant states that the disputed domain name is a typosquatted version of the trademark SO 'BIO ETIC which was registered many years before the disputed domain name and has acquired significant reputation among the general public.

Moreover, the Complainant argues that the Respondent was offering for sale on a website to which redirects the disputed domain name goods that are similar to the goods produced by the Complainant and while doing so, he used the Complainant figurative trademark (logo of the registered trademark), without being authorized by the Complainant.

The Complainant considers therefore that the Respondent choose to acquire and use the disputed domain name to create intentionally a confusion with the Complainant and its products.

##### RESPONDENT:

The Respondent did not respond to the Complaint.

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#### RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to trademarks in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

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#### NO RIGHTS OR LEGITIMATE INTERESTS

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

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#### BAD FAITH

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

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

Paragraph 15 of the Rules states that the Panel decides a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel draws such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidences provided in support of them.

The disputed domain name <sobioeticc.com> comprises of the Complainant's registered trademarks SO'BIO ÉTIC which is written as a one world (as the domain name system does not allow separation of the individual word elements) followed by the additional letter "C" and the Top-Level domain ".com".

Since the Complainant's trademark "SO'BIO ÉTIC" is fully comprised within the disputed domain name and the additional letter is rather indicative of an obvious misspelling of the Complainant's trademark, the Panel considers that the disputed domain name is confusingly similar to Complainant's previously registered trademarks.

The Panel accordingly concludes that paragraph 4(a)(i) of the Policy is satisfied.

3. The Respondent is not in any way related to the Complainant's business, nor has ever been an agent of the Complainant. The Respondent is not currently known and has never been known under the name "SO'BIO ÉTIC", or any combination of this trademark.

The websites the disputed domain name is currently associated with promoted and offered for sale adult goods that are massage oils for man and could be classified in Class 3 of the Nice Classification which covers the products for which the Complainant's trademarks are registered. However, the Complainant has not granted any license or authorization to the Respondent to make any use of the trademarks "SO'BIO ÉTIC". Therefore, such active use of the name "SO'BIO ÉTIC" in connection with the Complainant's goods does not constitute a legitimate interest in the disputed domain name.

Consequently, and in the absence of a Response, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

4. As to the bad faith at the time of the registration, the Panel finds that, in light of the fact that the Respondent choose a name which is almost identical to the Complainant's previously registered trademarks and put the logo corresponding to the Complainant's registered combined trademark on its webpage, the Respondent was more likely to be aware of the Complainant's trademarks at the time of the registration of the disputed domain name.

Furthermore, the Complainant notes that the disputed domain name resulted in the webpage in which goods of Class 3 of the Nice Classification were offered for sale. Despite that the Panel does not evaluate the content of the webpages to which the domain name is connected, the situation described by the Complainant and supported by submitted evidences is indicative of the use of the disputed domain name with malicious intention.

In fact, bearing in mind all the circumstances of the present case, the Respondent can be deemed to have registered the disputed domain name for obtaining commercial gain without a just cause and to the detriment of the Complainant's Intellectual Property Rights.

Accordingly, the Panel finds that the disputed domain name was registered in bad faith and consequently the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SOBIOETICC.COM**: Transferred

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## PANELLISTS

Name	<b>JUDr. Hana Císlarová, LL.M.</b>
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DATE OF PANEL DECISION	2021-11-16
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Publish the Decision

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