

Decision for dispute CAC-UDRP-105136

Case number CAC-UDRP-105136

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Domain names seloger-security.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization DIGITAL CLASSIFIEDS FRANCE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization Novomoto

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

French Trademark Registration No. 1751230 SELOGER dated 13 April 1988 for various services in classes 38 and 42.

FACTUAL BACKGROUND

The Complainant operates a French advertising business specialising in real estate that trades under the trademark "Seloger". It provides its services online and via specialised press. It is the owner of the above mentioned French trade mark registration and the owner of numerous domain names containing or consisting of the word "Seloger", including <seloger.com> which has been registered since 18 October 1996.

The disputed domain name was registered on 23 December 2022 using a privacy service to conceal the registrant details. The registrar for the disputed domain name has since confirmed the registrant's name is "Novotomo" and its address is provided as a location in Paris, France. The disputed domain name does not resolve to an active website. However MX servers have been configured indicating an intent to use the domain name for email services.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

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).

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).

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 lists three elements that the Complainant must prove to merit a finding that the disputed domain name registered by the Respondent be transferred to the Complainant:

- 1) the disputed domain name is identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has rights; and
- 2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- 3) the disputed domain name has been registered and is being used in bad faith.

The Panel is satisfied the Complainant has satisfied all three elements for the principal reasons set out below.

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

The Complainant asserts it has a trademark registration consisting of the word SELOGER in France. This registration predates the registration date of the disputed domain name by over 30 years.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a trademark that predates the registration of the disputed domain name in a single jurisdiction (even if that single jurisdiction is not one in which the Respondent resides or operates) (Koninklijke KPN N.V. v. Telepathy, Inc D2001-0217 (WIPO May 7, 2001); see also WIPO Case Nos. D2012-0141 and D2011-1436). The Complainant has clearly satisfied such in relation to the trademark SELOGER.

The next question is whether the disputed domain name is confusingly similar to the SELOGER trademark.

The Panel disregards the gTLD suffix ".com" for the purpose of this comparison. And it also places little weight on the SECURITY element in the domain name, which would be viewed by web users as indicating that websites or emails are related to a 'security' aspect of the business. Such web users are likely to focus entirely on the only distinctive element in the disputed domain name, being the SELOGER element.

The disputed domain name is therefore confusingly similar to the SELOGER trademark.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent's name according to information provided by the registrar for the disputed domain name is "Novotomo". This name bears no resemblance to "SELOGER". Further, the disputed domain name does not resolve to a website with any content which would indicate any right or legitimate interest in the disputed domain name.

The Respondent has no rights or interests in the disputed domain name.

BAD FAITH

The disputed domain name consists of the Complainant's distinctive trademark followed by a hyphen then the word "security". It has been registered in the same country where the Complainant operates and uses its trademark in relation to, inter alia, online advertising services. The use to which this domain name has been put is to simply configure MX servers, which indicates and intention to use the domain name for email services.

The combination of these facts is of great concern to the Panel. As part of an email address the disputed domain name would indicate that an email is from SELOGER and it is related to "security". It is entirely foreseeable such emails could be used to impersonate the Complainant and seeking login or personal details from customers under the guise of a security service. Although there is no evidence to show that such conduct has occurred there is equally no foreseeable good faith reason why the Respondent has chosen to register the disputed domain name in the format it appears and sought to configure MX servers.

On the facts the inferral that must be drawn, and is drawn, is that the Respondent knew of the SELOGER trade mark at the time of registering the disputed domain name and it can only follow that its purpose in registering the disputed domain name was to opportunistically profit from such confusing similarity. Such opportunism has been recognised as bad faith by numerous panels, the Panel refers to the commentary of the learned Gerald M Levine, Domain Name Arbitration, Legal Corner Press, 2nd ed. 2019, pp. 432 to 434.

The disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **seloger-security.com**: Transferred

PANELLISTS

Name	Andrew Sykes
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DATE OF PANEL DECISION **2023-02-13**

Publish the Decision
