

Decision for dispute CAC-UDRP-105536

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| Case number | CAC-UDRP-105536 |
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| Time of filing | 2023-06-15 10:13:49 |
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| Domain names | lemonde.ltd |
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Case administrator

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| Name | Olga Dvořáková (Case admin) |
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Complainant

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| Organization | SOCIETE EDITRICE DU MONDE |
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Complainant representative

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| Organization | NAMESHIELD S.A.S. |
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Respondent

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| Name | Iakov Shultz |
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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 owns several trademarks including the terms “LE MONDE”, such as

- The international trademark LE MONDE® n° 574503 registered on August 08th, 1991;
- The international trademark LE MONDE® n° 574502 registered on August 08th, 1991;

FACTUAL BACKGROUND

The Complainant, Le Monde is a French daily newspaper. It is the main publication of Le Monde Group and reported an average circulation of 470,000 copies per issue in 2022, about 40,000 of which were sold abroad – www.lemonde.fr

The disputed domain name <lemonde.ltd> was registered on December 28th, 2022 and resolves to a blank page with the domain name in title . The domain name also displays fake news (about war in Ukraine) by impersonating the Complainant.

PARTIES' CONTENTIONS

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The Complainant's contentions are summarized in the Factual Background section above.

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).

The Complainant states that the disputed domain name <lemonde.ltd> is identical to its trademark LE MONDE. Indeed, the domain name includes in its entirety the Complainant's trademark without any adjunction of letter or word.

The New GTLD“.LTD” does not serve to distinguish the disputed domain name from the LE MONDE® mark, which is the distinctive component of the domain name. It is well established that merely adding a top-level domain to a trademark is not sufficient to distinguish a domain name from a trademark. Please see for instance CAC Case No. 102041, AMUNDI v. Wilfried GRILLO <amundi.app> (“The Disputed domain name differs from the Complainant's trademark only by the addition of the top-level domain “.APP”).

Thus, the disputed domain name <lemonde.ltd> is identical to the Complainant's trademark LE MONDE®.

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).

According to the WIPO Case No. D2003-0455, *Croatia Airlines d. d. v. Modern Empire Internet Ltd.*, 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 domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Respondent is not identified in the Whois database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name. Please see for instance NAF Case No. FA 1781783, *Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com>* (“Here, the WHOIS information of record identifies Respondent as “Chad Moston / Elite Media Group.” The Panel therefore finds under Policy paragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).”).

The Respondent is not affiliated with nor authorized by LE MONDE in any way. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark LE MONDE®, or apply for registration of the disputed domain name by the Complainant.

The domain name is used to display fake news articles about the war in Ukraine by reproducing the Complainant's newspaper and logo. The Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the disputed domain Name was not in connection with any bona fide offering of goods or services. See *Netflix, Inc. v. Irpan Panjul / 3corp.inc*, FA 1741976 (Forum Aug. 22, 2017) (“The usage of Complainant's NETFLIX mark which has a significant reputation in relation to audio visual services for unauthorised audio visual material is not fair as the site does not make it clear that there is no commercial connection with Complainant and this amounts to passing off . . . As such the Panelist finds that Respondent does not have rights or a legitimate interest in the Domain Name.”).

Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name <lemonde.ltd>.

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).

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trade mark by an unaffiliated entity (particularly domain names which incorporate a mark plus a descriptive term) can already by itself create a presumption of bad faith.

The Complainant's LE MONDE trademark is well-known. A quick Internet search shows that the top search results returned for “LE

MONDE” are the Complainant’s official website and social media sites, and several third party websites making references to the Complainant’s products and services.

The Respondent has registered the disputed domain name in knowledge of the Complainant's trademark and uses it in bad faith:

First, Respondent’s use of the domain name to promote a competing news service constitutes bad faith under Policy paragraph 4(b)(iii) and (iv). Panels have decided that a respondent’s use of a domain name to provide competing products and/or services is evidence of bad faith registration and use under Policy paragraph 4(b)(iii) and (iv). See DatingDirect.com Ltd. v. Aston, FA 593977 (Forum Dec. 28, 2005) (“Respondent is appropriating Complainant’s mark to divert Complainant’s customers to Respondent’s competing business. The Panel finds this diversion is evidence of bad faith registration and use pursuant to Policy paragraph 4(b)(iii).”).

Secondly, Respondent uses the domain name to pass itself off as Complainant, in violation of Policy paragraph 4(b)(iv). Panels have held that a respondent’s attempt, through a disputed domain name, to pass itself off as a complainant constitutes bad faith registration and use under Policy paragraph 4(b)(iv). See Am. Online, Inc. v. Miles, FA 105890 (Forum May 31, 2002) (“Respondent is using the domain name at issue to resolve to a website at which Complainant’s trademarks and logos are prominently displayed. Respondent has done this with full knowledge of Complainant’s business and trademarks. The Panel finds that this conduct is that which is prohibited by Paragraph 4(b)(iv) of the Policy.”).

Thirdly, it is clear that Respondent registered the domain name with actual knowledge of Complainant’s mark and rights therein. In support of this contention, the Panel references the fame of its LE MONDE mark and Respondent’s use of the disputed domain name to offer fake news and mimick Complainant’s legitimate website. Panels have held that a respondent demonstrated bad faith registration and use pursuant to Policy paragraph 4(a)(iii) where the respondent was well-aware of the complainant’s mark at the time the disputed domain name was registered. See Yahoo! Inc. v. Butler, FA 744444 (Forum Aug. 17, 2006) (finding bad faith where the respondent was “well-aware” of the complainant’s YAHOO! mark at the time of registration). Accordingly, the Panel finds that Respondent registered the domain name with actual knowledge of Complainant’s mark, thereby violating Policy paragraph 4(a)(iii).

On these bases, the Respondent has registered and is using the disputed domain name in bad faith.

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

The domain name is used to display fake news articles about the war in Ukraine by reproducing the Complainant’s newspaper and logo. Respondent’s use of the domain name to promote a competing news service constitutes bad faith under Policy paragraph 4(b)(iii) and (iv)

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **lemonde.ltd**: Transferred

PANELLISTS

| | |
|------|---------------|
| Name | Thomas Hoeren |
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DATE OF PANEL DECISION 2023-07-14

Publish the Decision