

Decision for dispute CAC-UDRP-105585

Case number	CAC-UDRP-105585
-------------	-----------------

Time of filing	2023-06-29 08:56:53
----------------	---------------------

Domain names	wwwseloger.com
--------------	----------------

Case administrator

Name	Olga Dvořáková (Case admin)
------	-----------------------------

Complainant

Organization	DIGITAL CLASSIFIEDS FRANCE SAS
--------------	--------------------------------

Complainant representative

Organization	NAMESHIELD S.A.S.
--------------	-------------------

Respondent

Name	lahcen miftah
------	---------------

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 owner of several trademarks for the term "SELOGER" such as:

- The French trademark SELOGER® n° 1751230 registered and duly renewed since April 13, 1988;
- The French trademark SELOGER® n° 3436367 registered on June 22ⁿ, 2006;
- The French trademark SELOGER® n° 4319185 registered on December 2, 2016.

(hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

GROUPE SELOGER is the Complainant in the current proceedings, which is a group specializing in the distribution of real estate advertisements on the internet and in specialized press. The Complainant employs a vast number of real estate professionals and provides information on its services online, inter alia under the domain name <seloger.com>, registered since October 18, 1996.

The disputed domain name <wwwseloger.com> was registered on June 25, 2023 and resolves to an inactive (error) page. Besides, the disputed domain name is offered for sale for an undetermined price on the platform "Sedo".

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent is not commonly known by the disputed domain name, that it is not affiliated with nor authorized by the Complainant in any way, that the Complainant does not carry out any activity for, nor has any business with the Respondent, and that neither license nor authorization has been granted to the Respondent to make any use of the Trademark or apply for registration of the disputed domain name by the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It contends that the Respondent must have been fully aware of the Complainant and its well-known Trademark at the time of registration of the disputed domain name, that the Respondent's passive holding of the disputed domain name and the attempt to sell it is evidence of bad faith.

RESPONDENT:

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

According to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; 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.

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark as it fully incorporates it. The addition of generic terms such as "www" does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its Trademark. Furthermore, it is well established that a top level domain name does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel

finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

3.1 The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is highly distinctive and well-established.

3.2 Furthermore, the Panel accepts the Complainant's contentions that the disputed domain name has been used in bad faith under the principles of passive holding. It is the consensus view that the lack of active use of a domain name does not as such prevent a finding of bad faith under the Policy. In such cases, the panel must examine all the circumstances of the case to determine whether a respondent is acting in bad faith. Examples of circumstances that can indicate bad faith include a complainant having a well-known trademark, no response to the complaint, respondent's concealment of identity and the impossibility of conceiving a good faith use of the domain name (cf *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003; *Jupiters Limited v. Aaron Hall*, WIPO Case No. D2000-0574; *Ladbroke Group Plc v. Sonoma International LDC*, WIPO Case No. D2002-0131). Moreover, the sale offer of the disputed domain name on the above-mentioned platform is adding to the bad faith evidence.

The Panel is convinced that the Trademark is highly distinctive and well-established. Furthermore, the Respondent failed to file a Response - even though it has been confirmed by the Center that he accessed the online platform - and therefore did not provide evidence of any actual or contemplated good faith use of the disputed domain name. In the view of the Panel, the facts of this case do not allow for any plausible actual or contemplated active use of the disputed domain name by the Respondent in good faith. The Panel is therefore convinced that, even though the disputed domain name has not yet been actively used, the Respondent's non-use of the disputed domain name equals to use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **wwwseloger.com**: Transferred

PANELLISTS

Name	Stefanie Efstathiou LL.M. mult.
DATE OF PANEL DECISION	2023-08-07
Publish the Decision	