Decision for dispute CAC-UDRP-105586

Case number	**CAC-UDRP-105586**
Time of filing	**2023-06-29 08:48:59**
Domain names	**myselogerpro.live**

Case administrator

Organization	**Iveta Špiclová (Czech Arbitration Court) (Case admin)**

Complainant

Organization	**DIGITAL CLASSIFIEDS FRANCE**

Complainant representative

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

Respondent

Name	**Cralos Ramirez Fuentes**

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 French registered trade mark 3120500 for SE LOGER PRO registered on September 11, 20011751230 and one of its group companies owns the SE LOGER French registered trade mark which was registered on April 13, 1988. The Complainant or tis group companies also owns the domain names <seloger.com> from which it operates its official website and also the domain name <selogerpro.com>.

FACTUAL BACKGROUND

The Complainant, based in France, has for more than 25 years operated as a facilitator of real estate advertisements with its main website at <seloger.com> and 11 specialised real estate websites.

PARTIES CONTENTIONS

The Complainant contends 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 trade mark 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

The Complainant has demonstrated that it owns French registered trade mark 3120500 for SE LOGER PROregistered on September 11, 2001. The Complainant group also owns the SE LOGER mark as noted above. The disputed domain name wholly incorporates the SE LOGER PRO mark and is therefore confusingly similar to the Complainant's registered trade mark right. The inclusion of the personal pronoun "my" and the top level domain name ".live" does not prevent a finding of confusing similarity.

The Complainant has demonstrated that it enjoys a developed reputation and business in France in connection with its registered marks and has contended that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is not related in any way with the Complainant. The Complainant has also confirmed that it does not carry out any activity for, nor has any business with the Respondent. It has also asserted that it has not granted any licence or authorisation to the Respondent to make any use of the Complainant’s trade marks or to apply for registration of the disputed domain name. The disputed domain name resolves to an error page and the Complainant has contended that the Respondent did not use the disputed domain name and has no demonstrable plan to use the disputed domain name.

The Panel finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has failed to rebut the Complainant’s case or to explain its and for these reasons the Panel finds that the Complaint has no rights or legitimate interests in the disputed domain name.

The disputed domain name was only registered in June 2023 many years after the registration of the Complainant's trade mark rights. The Complainant appears to enjoy a long-established business and reputation in France attaching to the SE LOGER and SE LOGER PRO trade marks and it is more likely than not that the Respondent (based close by in Barcelona) was well aware of the Complainant's business and trade marks when he registered the disputed domain name.

Previous UDRP panelists have found that where a domain name does not resolve to an active website and is effectively "passively" held, that this does not prevent a finding of use in bad faith. A number of factors that have been considered relevant in applying the passive holding doctrine including: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.

In this case the Complainant's SE LOGER PRO mark and its group’s SE LOGER mark appear to enjoy an established reputation and goodwill built up over many years. The Respondent has failed to explain itself and has used a privacy service to conceal its identity. Finally, by merely adding the personal pronoun "my" to the Complainant's "SE LOGER PRO" mark and in circumstances of the Complainant's well established French business under the SE LOGER and SE LOGER PRO marks and of its prior registration and use of the <selogerpro.com> domain name, there is no plausible good faith use that the Respondent could make of the disputed domain name.

The Panel therefore finds that the disputed domain name was both registered and has been 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. **myselogerpro.live**: Transferred

PANELLISTS

Name	**Mr Alistair Payne**

DATE OF PANEL DECISION 2023-08-05

Publish the Decision