

Decision for dispute CAC-UDRP-105679

Case number CAC-UDRP-105679

Time of filing 2023-08-02 10:26:47

Domain names myselogerpro.cloud

Case administrator

Name Olga Dvořáková (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 is the owner of the renowned SELOGER trademark registered in numerous countries. The Complainant owns inter alia the following registrations:

French trademark SELOGER no. 1751230 registered on April 13, 1988;
French trademark SE LOGER PRO no. 3120500 registered on September 11, 2001;
French trademark SELOGER (device) no. 3436367 registered on June 22, 2006;
French trademark SELOGER (device) no. 4319185 registered on December 2, 2016.

The Complainant also owns the domain names <seloger.com>, registered on October 18, 1996 and used for its official website, and <selogerpro.com>, registered on May 29, 2000.

FACTUAL BACKGROUND

The Complainant is a group specializing in the distribution of real estate advertisements on the internet and in the specialized press. The Complainant employs over 20,000 real estate professionals and has over 60 million visits on the Internet. Furthermore, the Complainant offers a dedicated website/application to real estate professionals called "MySelogerpro".

The disputed domain name was registered on July 27, 2023, and resolves to a blank page.

PARTIES CONTENTIONS

COMPLAINANT:

The disputed domain name is confusingly similar to the Complainant's trademarks;

The Complainant contends that the disputed domain name is confusingly similar to the SELOGER and SELOGER PRO trademarks. The Complainant further affirms that the disputed domain name exactly reproduces the "SELOGER PRO" trademark with the mere addition of the term "my", and that this combination strengthens confusion by suggesting to consumers that the disputed domain name and corresponding web site might be operated by the Complainant or with the Complainant's authorization.

The Respondent does not have any rights or legitimate interest in the disputed domain name:

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent. The Complainant further contends that the disputed domain name redirects to a blank page, and that this is not a bona fide use. On the contrary, it proves a lack of legitimate interests in respect of the disputed domain name except in order to create a likelihood of confusion with the Complainant and its trademarks.

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

The Complainant contends that owing to the renown of the Complainant's trademarks, it is presumable that the Respondent had actual knowledge of the Complainant's distinctive trademarks.

The Complainant further contends that it is inconceivable that at the time of registration of the disputed domain name the Respondent did not know of the Complainant's trademark and activity. Rather, the combination of the SELOGER PRO distinctive trademark, together with the generic term "my", strengthens the confusion between the disputed domain name and the Complainant's trademark, and the inference that the Respondent was aware of the Complainant's trademark. The Complainant also claims that the Respondent is using the disputed domain name with the sole purpose of impersonating the Complainant for fraudulent purposes.

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

A) Confusing similarity

The Panel agrees with the Complainant's assertion that the addition of the generic term, "my", does not prevent the disputed domain name from being confusingly similar to the Complainant's trademarks.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the SELOGER and SELOGER PRO trademarks when it registered the disputed domain name.

The Complainant's SELOGER trademark is a distinctive and renowned trademark and has been registered and used for about 25 years. The renown of the Complainant's trademark has already been acknowledged in previous UDRP decisions such as in WIPO Case No. D2015-1059, Pressimmo On Line vs Bakeemys / Hakim Razouane <seloger.construction >, <seloger.maison>, in which the panel found that: "le Défendeur ne pouvait pas ignorer l'existence de la Marque du Requéant au moment de l'enregistrement des noms de domaine litigieux en raison de sa notoriété".

Consequently it appears, on the balance of probability, that the Respondent registered the disputed domain name while aware of the Complainant's trademark and activity, and did so with the intention of creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of either the Respondent and/or the disputed domain name. This constitutes bad faith registration and use as well as a disruption of the Complainant's business under the Policy. Inference of bad faith can also be found in the Respondent's failure to respond to the Complainant's contentions, and the Respondent's lack of any rights or legitimate interests in the disputed domain name.

Another factor supporting the conclusion of bad faith registration and use of the disputed domain name, based on the documents filed by the Complainant, can be seen in the fact that the Respondent registered the disputed domain name with a privacy shield service to hide the registrant's identity.

Finally, as regards the use in bad faith of the disputed domain name, which currently resolves to an inactive website, the Panel considers that in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith. See WIPO Overview 3.0, section 3.3. The Panel here considers as relevant the renown of the Complainant's trademark, the incorporation of said distinctive trademark and the inherently misleading nature of the disputed domain name, and the Respondent's failure to participate in the proceeding.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **myselogerpro.cloud**: Transferred

PANELLISTS

Name	Fabrizio Bedarida
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DATE OF PANEL DECISION 2023-09-05

Publish the Decision
