

Decision for dispute CAC-UDRP-105740

Case number CAC-UDRP-105740

Time of filing 2023-08-31 11:04:00

Domain names leroymerlin-sklad.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization GROUPE ADEO

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization 1337 Services LLC

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 registered owner of several trademarks consisting of the terms "LEROY-MERLIN" in particular international verbal trademark "LEROY-MERLIN" no. 591251 registered on 15.07.1992 for goods and services in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 16, 17, 20, 21, 22, 25, 27, 28, 31, 37. This mark has duly been renewed and is in force.

FACTUAL BACKGROUND

The Respondent registered the disputed domain name on 30 June 2022.

According to the Complainant's undisputed allegations the disputed domain name resolves to the Complainant's official Russian LEROY MERLIN website.

PARTIES CONTENTIONS

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

1.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

The trademark "LEROY-MERLIN" remains readily identifiable within the disputed domain name.

The fact that the hyphen between the two verbal elements is missing and the element "-sklad" (which is Czech and means "warehouse" or "stock") is added, cannot exclude confusing similarity between the disputed domain name and the Complainant's registered mark.

2.

In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

Firstly, it results from the Complainant's uncontested evidence that the disputed domain name resolves to the Complainant's official Russian LEROY MERLIN-website and therefore giving the false appearance of being linked to the Complainant, which is, however, not the case as the Complainant undisputedly confirmed. In this Panel's view, such use cannot be qualified as a bona fide offering of goods or services in accordance with paragraph 4(c)(i) of the Policy, since such use is likely to mislead Internet users. In addition, the Respondent did not submit any evidence of bona fide pre-Complaint preparations to use the disputed domain name. In particular, the Complainant's uncontested allegations demonstrate that it has not authorized or licensed the Respondent's use of the LEROY-MERLIN-trademark for registering the disputed domain name which is confusingly similar to the Complainant's trademark.

Secondly, the Panel notes that there is no evidence in the record that could lead the Panel to conclude that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Thirdly, the Panel notes that there is no evidence in the record either showing that the Respondent might be making a noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue pursuant to paragraph 4(c)(iii) of the Policy. In particular, the Panel considers it obvious that the disputed domain name which entirely incorporates the trademark LEROY-MERLIN carries a high risk of implied affiliation

3.

Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith according to paragraph 4(a)(iii) of the Policy.

It is the view of this Panel that the Respondent has registered and is using the disputed domain name, which fully includes the Complainant's trademark in identical form, in order to intentionally attempt to attract, for commercial gain, Internet users to a web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his web site (par. 4(b)(iv) of the Policy).

It results from the documented and undisputed evidence provided by the Complainant that the disputed domain name, which contains the Complainant's trademark LEROY-MERLIN except for the hyphen, resolves to the Complainant's official Russian LEROY MERLIN-website. Panels have moreover found redirecting to the complainant's website to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark (see section 3.1.4 of the WIPO Overview 3.0).

Additionally, the Panel also considered the following factors as supporting these findings of bad faith registration and use:

- (i) the high degree of intrinsic distinctiveness of the Complainant's mark and the fact that the mark, on which the Complainant relies, has been existing for more than 30 years,
- (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 hiding his identity behind a privacy shield,
- (iv) the implausibility of any good faith uses to which the disputed domain name may be put.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **leroymerlin-sklad.com**: Transferred

PANELLISTS

Name	Tobias Malte Müller
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DATE OF PANEL DECISION **2023-10-10**

Publish the Decision
