

Decision for dispute CAC-UDRP-105830

Case number	CAC-UDRP-105830
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Time of filing	2023-09-29 10:47:08
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Domain names	llbofrance.com
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Case administrator

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

Organization	LBO FRANCE GESTION
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Xo Larfu
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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 EU trademark registration number 9227307 for LBO FRANCE, which was registered on 22 December 2010 in classes 35 and 36.

FACTUAL BACKGROUND

The Complainant is a French private equity company founded in 1985. It operates in the sectors of transmission capital, venture capital, real estate and debt. The Complainant owns the trademark, LBO FRANCE, which predates the registration of the disputed domain name. It is also the registrant of the domain name <llbofrance.com>, which was created on 5 May 1999. The disputed domain name was registered on 4 September 2023. It resolves to a parking page. MX servers are configured.

PARTIES CONTENTIONS

COMPLAINANT: The Complainant contends that the disputed domain name, <llbofrance.com>, is confusingly similar to its trademark LBO FRANCE. It says the addition of the letter "l" to its trademark is not sufficient to escape the finding that the disputed domain name

is confusingly similar to its trademark and is a clear case of typosquatting. The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name and contends that: the Respondent is not related in any way with the Complainant; the Respondent is not identified as the disputed domain name in the Whois database nor known as the disputed domain name; the Complainant does not carry out any activity for, nor has any business with the Respondent; the Complainant has not licenced the Respondent to make any use of its trademark, nor authorised the Respondent to apply for registration of the disputed domain name; the Respondent is typo-squatting, that is, he has registered a domain name in an attempt to take advantage of Internet users' typographical errors, which can be evidence that a respondent lacks rights and legitimate interests, see Forum Case No. 1597465, The Hackett Group, Inc. v. Brian Herts/The Hackett Group; and the disputed domain name resolves to a parking page, which demonstrates a lack of legitimate interests, see WIPO Case No. D2000 - 1164, Boeing Co. v. Bressi. The Complainant asserts that the disputed domain name was registered and is being used in bad faith and asserts that: a Google search of the terms "LBO FRANCE" refers to the Complainant; the misspelling of the trademark, LBO FRANCE, was intentionally designed to be confusingly similar with the Complainant's mark; and the disputed domain name was used for phishing activity, which is evidence of bad faith registration and use. 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

Paragraph 4 (a) of the Policy requires the Complainant to prove each of the following three elements: (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; (ii) the Respondent has no rights or legitimate interests in the disputed domain name; and (iii) the disputed domain name has been registered and used in bad faith. The Respondent has failed to file a Response. The Panel will draw such inferences from the Respondent's default as the Panel considers appropriate. **A. IDENTICAL OR CONFUSINGLY SIMILAR** The disputed domain name is comprised of the letter "l" plus the Complainant's trademark, LBO FRANCE, and the top-level domain ".com". The dominant feature of the disputed domain name is the Complainant's trademark, LBO FRANCE. The misspelling of the trademark by adding the letter "l" at the beginning, does nothing to avoid the conclusion that the disputed domain name is confusingly similar to the Complainant's trademark. The addition of the top-level suffix, such as ".com" is a standard registration requirement. It does not add any distinctiveness to a domain name and can be disregarded when assessing whether the disputed domain name is confusingly similar to the Complainant's trademark. The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark and that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy. **B. NO RIGHTS OR LEGITIMATE INTERESTS** The Complainant has provided evidence of its rights in the trademark LBO FRANCE, which predates the registration of the disputed domain name. The Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests. The burden of proof now shifts to the Respondent to show that he has relevant rights. The Respondent has not filed a Response, nor challenged any of the Complainant's assertions. There is nothing to indicate that the Respondent is commonly known as the disputed domain name. The Panel accepts that the Complainant does not conduct any activity for, nor has any business with the Respondent and has not licenced the Respondent to use its trademark in the disputed domain name. The addition of the letter "l" to the Complainant's trademark is a clear case of typosquatting, designed to take advantage of Internet users' typographical errors to capitalise on the goodwill in the Complainant's trademark. The disputed domain name resolves to a parking page. There is no evidence to show that the Respondent has any plans to use the disputed domain name for any legitimate purpose. Considering these factors, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been met. **C.**

REGISTERED AND BEING USED IN BAD FAITH The Complainant owns the EU trademark registration for LBO FRANCE. It predates the disputed domain name by many years. The Respondent has failed to submit a Response and has not provided any evidence of any actual or contemplated good-faith use. The Respondent used a privacy service to conceal his identity. His obvious misspelling of the Complainant's trademark indicates an intention register the disputed domain name in bad faith to create a likelihood of confusion with the Complainant's mark. The Complainant has submitted evidence to show that the disputed domain name was used for phishing activity via an email to create a likelihood of confusion with the Complainant and its mark for commercial gain. The Panel concludes that the disputed domain name was both registered and is being used in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **llbofrance.com**: Transferred

PANELLISTS

Name	Veronica Bailey
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DATE OF PANEL DECISION 2023-10-31

Publish the Decision