

Decision for dispute CAC-UDRP-105907

Case number CAC-UDRP-105907

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Domain names selogerfr.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization DIGITAL CLASSIFIEDS FRANCE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization ZAKAZ

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 holds the following trademark registrations for SELOGER:

- French trademark number 1751230 registered on 13 April 1988 in classes 38 and 42;
- French trademark number 3436367 registered on 22 June 2006 in classes 16; 35; 36; 37; 38; 39; 41 and 42; and
- French trademark number 4319185 registered on 2 December 2016, in classes 35; 36; 37; 38; 39; 41 and 42.

The Complainant is also the registrant of the domain name <seloger.com>.

FACTUAL BACKGROUND

The Complainant is based in France. It owns trademark registrations in France for SELOGER. It is also the registrant of the domain name <seloger.com>, registered on 18 October 1996, which is used for its official website.

The Seloger Group has been specialising in the distribution of real estate advertisements on the internet and in the specialized press for over 25 years. It employs over 20,000 real estate professionals and has over 60 million visits on the Internet.

The Respondent has its address in the Netherlands. The disputed domain name was registered on 17 October 2023 using a privacy

service. It resolves to a parking page.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant asserts that the disputed domain name is confusingly similar to its trademark, SELOGER, which is included in the disputed domain name in its entirety.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name and asserts that:

- i. the Respondent is not known as the disputed domain name;
- ii. the Complainant does not carry out any activity for, nor has any business with the Respondent, and the Respondent is not related in any way with the Complainant;
- iii. the Complainant has not licenced or authorised the Respondent to make any use of the Complainant's trademarks, or apply for registration of the disputed domain name; and
- iv. the disputed domain name points to a parking page and the Respondent has no demonstrable plan to use the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It contends that the disputed domain name <selogerfr.com> is confusingly similar to its well-known and distinctive trademark SELOGER and asserts that:

- i. given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks;
- ii. the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use by the Respondent that would not be illegitimate or an infringement of the Complainant's rights;
- iii. the disputed domain name includes the well-known and distinctive trademark SELOGER, see for instance WIPO Case No. D2015-1059, Pressimmo On Line vs Bakeemys / Hakim Razouane, <seloger.construction > and <seloger.maison> in which the Panel states: "...the Respondent could not have been unaware of the existence of the Complainant's trademark at the time of the registration of the disputed domain names because of its notoriety"; and
- iv. all the Google results of a search of the term "SELOGERFR" refer to the Complainant.

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 issued a procedural order under paragraph 10 and 12 of the Rules on 22 November 2023 requesting some clarifications on the trademark ownership from the Complainant. The Complainant replied to Panel's request on 23 November 2023 and provided the required information.

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 Panel may draw such inferences from a party's failure to comply with Rules, or any request from the Panel as the Panel considers appropriate (see paragraph 14 (b) of the UDRP Rules).

A. Identical or confusingly similar

The Complainant has provided evidence of its French national trademark registrations for SELOGER dating back to 1988. The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, paragraph 1.2.1 states:

"Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case".

The dominant feature of the disputed domain name is the trademark, SELOGER. Adding the letters "fr" at the end of a French registered trademark does nothing to avoid the conclusion that the disputed domain name is confusingly similar to the SELOGER mark.

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 a trademark.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark, SELOGER 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 SELOGER trademarks and has made out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The burden of proof now shifts to the Respondent to show that it has relevant rights.

The Respondent has not filed a Response nor disputed the Complainant's assertion that the Respondent has no rights or legitimate interests in the disputed domain name. There is nothing to indicate that the Respondent is commonly known as the disputed domain name. The Panel accepts that the Respondent is not related to the Complainant, has no business with the Complainant and is not licenced to use the Complainant's trademark in the disputed domain name. Using the disputed domain name, which is comprised of the Complainant's trade mark and the geographical indicator "fr" for France, in connection with a parking page is not a legitimate non-commercial or fair use by the Respondent

Considering these factors, the Panel finds that the Respondent has no rights or legitimate interest 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 French trademark registrations for SELOGER, which have been registered for many years. The disputed domain name incorporates the Complainant's French trademark in its entirety and adds to it the geographical indicator "fr". It is implausible that the Respondent would have been unaware of the Complainant's trademark when registering the disputed domain name.

A privacy service has been used to conceal the Respondent's identity. The Respondent has failed to submit a Response, has not disputed any of the Complainant's assertions and has not provided any evidence of any actual or contemplated good-faith use. The disputed domain name resolves to a parking page. It is impossible to conceive of any plausible actual or contemplated use of the disputed domain name by the Respondent that would not infringe the Complainant's rights in the SELOGER mark.

Taking these factors into account, 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. **selogerfr.com**: Transferred
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PANELLISTS

Name	Veronica Bailey
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DATE OF PANEL DECISION **2023-11-28**

Publish the Decision
