

Decision for dispute CAC-UDRP-105985

Case number CAC-UDRP-105985

Time of filing 2023-11-16 09:22:30

Domain names adeoservices.org

Case administrator

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

Complainant

Organization GROUPE ADEO

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Donald Mays

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 evidence shows the Complainant owns several trademarks and domain names.

1. Trademarks

Trademark	Registration Number	Date of Registration
ADEO	European No. 005384731	October 13, 2006
ADEO	International No. 930513	October 13, 2006
ADEO	International No. 922918	April 2, 2007
ADEO	International No. 1316051	September 8, 2016

1. Domain Names

Domain Name	Date of Registration
<adeo.com>	August 10, 1995
<adeo-services.com>	November 20, 2006
<adeo-services.fr>	May 18, 2007

FACTUAL BACKGROUND

The Complainant is a French company specializing in the sale of articles for home improvement, living environment development, and DIY products for both individuals and professionals.

It owns several "ADEO" trademarks registered across multiple jurisdictions since 2006, indicating a long-standing presence and brand recognition in the market.

It also owns a couple of domain names incorporating its trademark "ADEO" and the generic term "SERVICES".

The disputed domain name <adeoservices.org> was registered on November 8, 2023, and resolves to a parking page and MX servers are configured.

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.

The Respondent failed to file an administratively compliant response.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that 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).

The Panel accepts that the Complainant has rights by reason of its ownership of the registered trademark "ADEO". See *F. Hoffmann-La Roche AG v. Relish Enterprises*, WIPO Case No. D2007-1629.

The question is whether the disputed domain name is identical or confusingly similar to the Complainant's trademark.

Whether a disputed domain name is identical or confusingly similar to a trademark can be determined by making a side-by-side comparison with the disputed domain name. See *Research in Motion Limited v. One Star Global LLC*, WIPO Case No. D2009-0227. A disputed domain name is identical to the trademark when it is a character for character match. It is confusingly similar when it varies the trademark by, for example, adding generic terms to the dominant part of the trademark.

The Complainant contends that the disputed domain name <adeoservices.org> is confusingly similar to its trademark as being included in its entirety in the disputed domain name. The Complainant asserts that the addition of the generic term "SERVICES" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark "ADEO". See *Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin*, WIPO Case No. D2003-0888.

The Complainant also points to the use of the generic term "SERVICES" in the disputed domain name where such reference directly refers to the Complainant's subsidiary ADEO SERVICES.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademark. The direct incorporation of the "ADEO" trademark and the addition of the generic term "SERVICES" relevant to the Complainant's industry and its own corporate identity strengthen the confusing similarity. This confusing similarity is exacerbated by the rights that the

Complainants have in relation to its own domain names that use its trademark "ADEO" and the generic term "SERVICES", for example <adeo-services.com> and <adeo-services.fr>.

It is also trite to state that the addition of the gTLD ".org" does not add any distinctiveness to each of the disputed domain names and will be disregarded for the purposes of considering this ground.

Accordingly, the Panel considers that the disputed domain name is confusingly similar to the Complainant's trademark "ADEO" and this ground is made out.

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).

A complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such a prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. See Document Technologies, Inc. v. International Electronic Communications Inc, WIPO Case No. D20000270.

If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See Croatia Airlines d.d. v. Modern Empire Internet Ltd, WIPO Case No. D2003-0455; Mile, Inc. v. Michael Burg, WIPO Case No. D2010-2011.

The Complainant asserts as follows:

1. The Respondent is not identified in the WHOIS database as being associated with the disputed domain name. The Respondent is, therefore, not commonly known by the disputed domain name.
2. The Respondent has no rights or legitimate interests in the disputed domain name and is not affiliated with the Complainant in any way. There is a lack of any relationship or business between the Complainant and the Respondent.
3. It has not granted any license or authorization to the Respondents to use the Complainant's trademark or to register the disputed domain name.
4. The disputed domain name resolves to a parking page which indicates that the Respondent has not used the disputed domain name since registration, and there is a lack of demonstrable plan by the Respondent to use it for any legitimate purpose.

The Panel considers that evidence adduced to support the Complainant's assertions establish a prima facie case that the Respondent lacks rights or legitimate rights in the disputed domain name.

Accordingly, the burden falls on the Respondent to demonstrate its rights or legitimate interests in the disputed domain name.

The Respondent has not filed any administratively compliant response.

Given the evidence adduced by the Complainant of its portfolio of trademarks and reputation which the Panel accepts as evidencing the strength of its reputation, the Panel accepts and finds that the Respondent has no rights or legitimate interests to the disputed domain name.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown that 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).

There are two elements that must be satisfied – registration and use in bad faith.

The Complainant contends, upon the evidence adduced, that the Respondent registered and used the disputed domain name in bad faith based on the following grounds:

1. The Complainant asserts that the disputed domain name is confusingly similar to its trademark. This similarity is underscored by the disputed domain name's registration occurring several years after the Complainant's trademark was established.
2. A Google search for "ADEO SERVICES" predominantly yields results linked to the Complainant and its subsidiary, suggesting a strong online presence and recognition of the trademark "ADEO".
3. Given the distinctiveness and recognition of the Complainant's trademark, it is inferred that the Respondent was likely aware of the trademark when registering the disputed domain name. This knowledge is critical in assessing the

Respondent's intentions.

4. The disputed domain name currently resolves to a parking page, indicating non-use or passive holding. There is no evidence of the Respondent's legitimate use or intended use of the disputed domain name that is not infringing or illegitimate.
5. The configuration of MX servers for the disputed domain name implies that the domain might be used for e-mail purposes.

The Panel accepts the evidence that the Complainant is known widely by the use of its trademark "ADEO" and by reference to its subsidiary ADEO SERVICES. These terms are also used in its own domain names. The Respondent's incorporation of the Complainant's trademark "ADEO" coupled with the use of the generic term "SERVICES" lead to a strong inference that the Respondent possessed prior knowledge of the Complainant's established rights.

The Panel is prepared to accept, in these circumstances, that the Respondent intended to take advantage of the Complainant's brand and reputation.

Furthermore, the Panel notes that the disputed domain name remains inactive. The evidence suggests that MX servers have been configured for e-mail purposes. The Panel observes, however, that legitimate activity cannot be inferred merely from a respondent's creation of MX servers for accepting e-mail messages on behalf of a domain name. Here, there is no evidence of the Respondent's intent to use the disputed domain name for e-mail communication, and without a legitimate basis, this conduct reinforces the inference of bad faith.

The Panel considers that the absence of a credible explanation for this inactivity implies that the Respondent is likely holding the disputed domain name for undisclosed purposes.

The parking page hosted by GoDaddy provides, amongst other information, the following: "This domain is registered, but may still be available. If you're interested, try our Domain Broker service." The Panel infers that the disputed domain name is likely available to any interested party to purchase.

In the absence of any plausible justification for maintaining the disputed domain name, this conduct aligns with a use in bad faith, consistent with findings of other panels.

Accordingly, the Panel finds that the disputed domain name was registered by the Respondent and used in bad faith.

PROCEDURAL FACTORS

When forwarding a Complaint, including any annexes, electronically to the Respondent, paragraph 2 of the Rules states that CAC shall employ reasonably available means calculated to achieve actual notice to the Respondent.

Paragraphs 2(a)(i) to (iii) set out the sort of measures to be employed to discharge CAC's responsibility to achieve actual notice to the Respondent.

On December 7, 2023, the CAC by its non-standard communication stated as follows (omitting irrelevant parts):

That neither the written notice of the Complaint nor the advice of delivery thereof was returned to the Czech Arbitration Court. The CAC is therefore unaware whether the written notice was received by the Respondent or not.

As far as the e-mail notice is concerned, CAC received a notification that the e-mail notices were sent to <postmaster@adeoservices.org> and to <dmays768@gmail.com>, but we never received any proof of delivery or notification of undelivery.

No further e-mail address could be found on the disputed site.

The Respondent never accessed the online platform.

Given the reasonable measures employed by CAC as set out in the above non-standard communication, the Panel is satisfied that all procedural requirements under UDRP are met and there is no other reason why it is inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. The Complainant has established substantial rights in the trademark "ADEO", with multiple registrations in various jurisdictions, and the existence of domain names such as <adeo.com>, <adeo-services.com>, and <adeo-services.fr>. The disputed domain name <adeoservices.org> is identical or confusingly similar to the Complainant's trademarks and domain names which long predates the registration of the disputed domain name, supporting its claim of rights.

2. The Complainant has discharged the burden of proof under the Policy that the disputed domain name is confusingly similar to its trademark. The inclusion of the trademark "ADEO" in its entirety within the disputed domain name, coupled with the generic term "SERVICES" likely aims to exploit the Complainant's brand recognition, suggesting bad faith registration and use by the Respondent.
3. The Respondent's failure to submit an administratively compliant response to the Complainant's challenge has resulted in a default. This, along with the lack of evidence suggesting any rights or legitimate interests of the Respondent in the disputed domain name, has led the Panel to conclude that the Complainant's contentions are unchallenged and sufficient to satisfy the requirements of the Policy.
4. Given these reasons, the Panel directs that the disputed domain name <adeoservices.org> be transferred to the Complainant, as the Complainant has made out their case under the Policy and the Respondent has not demonstrated any rights or legitimate interests in the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **adeoservices.org**: Transferred

PANELLISTS

Name	William Lye OAM KC
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DATE OF PANEL DECISION 2023-12-08

Publish the Decision
