Decision for dispute CAC-UDRP-106858

Case number	CAC-UDRP-106858
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Domain names	autodistrlbution.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	AUTODISTRIBUTION

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Morgan Herbert

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 following trademarks:

- The French trademark AUTODISTRIBUTION no. 1554818 registered on October 11, 1989;
- The international trademark AUTODISTRIBUTION no. 571283 registered on December 19, 1990;
- The international trademark AUTODISTRIBUTION no. 1179674 registered on June 19, 2013.

The Complainant is also the owner of a number of domain names including the same distinctive term AUTODISTRIBUTION, including the domain name <autodistribution.fr>, registered since October 10, 1999.

FACTUAL BACKGROUND

The Complainant was founded in 1962.

It is a French company and member of AD International, part of the Autodis Group, the leading independent distributor of spare parts for light and heavy vehicles in Western Europe.

In France, the Complainant employs nearly 5,500 people, with more than 240 approved suppliers for 350 brands of equipment and

over a million references in stock.

It specialises in the distribution of spare parts, paints, tires and equipment, as well as multi-brand garage and repair services under the AD brand.

The disputed domain name, <autodistrlbution.com> was registered on September 5, 2024.

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.
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).

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical to 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 Complainant asserts that the disputed domain name <autodistrlbution.com> is confusingly similar to its registered trademark, AUTODISTRIBUTION.

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 F. Hoffmann-La Roche AG v. P Martin, WIPO Case No. D2009-0323.

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.

Here, the primary difference between the disputed domain name and the Complainant’s trademark is a single letter variation, where the letter "I" in "distribution" is replaced by the letter "L".

At first glance, the eye may not pick this difference. This is a characteristic example of typosquatting, which is widely recognised as a method of capitalising on users' typing mistakes, and such slight alterations in spelling do not diminish the confusing similarity to the original trademark. These small deviations do not negate the likelihood of confusion, as in this case.

This deliberate misspelling aims to exploit minor typographical errors made by users when typing the Complainant’s trademark, thus creating confusing similarity between the disputed domain name and the Complainant’s trademark.

It is also trite to state that the addition of the gTLD “.com” does not add any distinctiveness to the disputed domain name and will be disregarded for the purposes of considering this ground.

Accordingly, the Panel considers that 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. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.

The Complainant asserts that the Respondent lacks any rights or legitimate interests in the disputed domain name.

The Complainant contends that the Respondent is not commonly known by the disputed domain name.

Here, the Complainant adduces evidence from the WHOIS database that shows the Respondent is not identified by or associated with the disputed domain name.

The Complainant further asserts that the Respondent is not affiliated with or authorised by the Complainant in any capacity. It has not granted any licence or authorisation to the Respondent to use its trademark AUTODISTRIBUTION or register a domain name incorporating it.

The Panel accepts this unchallenged assertion.

The Complainant also adduces evidence that the disputed domain name resolves to a template website with no meaningful content, suggesting a lack of any bona fide offering of goods or services, or any legitimate non-commercial use.

The absence of substantive content on a website can indicate a lack of rights or legitimate interest.

The Respondent has not filed any administrative compliant response, thus there is no evidence of a legitimate non-commercial or fair use of the disputed domain name.

Finally, the Complainant contends that the typosquatting is evidence that the Respondent lacks rights or legitimate interests in the disputed domain name. Taking the whole of the evidence adduced and the Respondent's failure to respond to the proceeding, the Panel accepts this contention.

As such, the Panel considers the Respondent has no legitimate basis to use the Complainant's trademark.

Accordingly, the Panel considers that this ground is made out.

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).

The Complainant contends that the disputed domain name was registered and is being used in bad faith.

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

The Complainant asserts that it is a leader in the auto parts industry, employing thousands of people and partnering with numerous suppliers.

The evidence shows that the Complainant's trademark was registered years before the Respondent registered the disputed domain name.

Given the asserted widespread reputation of AUTODISTRIBUTION, it is highly unlikely that the Respondent registered the disputed domain name without knowledge of the Complainant's rights.

The Complainant contends that the Respondent intentionally registered the domain name with the deliberate misspelling to create confusion with the Complainant's trademark, a practice often associated with typosquatting. The Panel has already found that disputed domain name is confusingly similar to the Complainant's trademark, which it asserts is well-known.

The Panel accepts this is sufficient evidence of bad faith as the registration of the disputed domain name contains an obvious misspelling of the Complainant's trademark.

The disputed domain name also points to a template website, which provides no substantive content or information about its owner. It has, however, the presence of MX records which suggests that it could be used for email communications.

An inactive or "passive" use of a domain name incorporating a famous trademark can be indicative of bad faith registration and use, when combined with the lack of any legitimate use.

The evidence adduced shows that there is a lack of active website content; deliberate misspelling of the Complainant's trademark; and passive holding of the disputed domain name. The Panel is prepared to draw the inference that any emails originating from the disputed domain name would be unlikely used for good faith purposes.

No challenge has been made by the Respondent to the Complainant's contentions and assertions as it has not filed any administrative compliant response.

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

PROCEDURAL FACTORS

Notification of proceedings to the Respondent

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 October 4, 2024 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.
- Further address "1234 N Spring St, Los Angeles, CA 90012" for correspondence was found on the disputed domain name.
- As far as the e-mail notice is concerned, the CAC did not receive any confirmation about delivery if the e-mail sent to postmaster@autodistrlbution.com was delivered or not.
- The e-mail notice sent to macr.henri.dorin@gmail.com was returned back undelivered as the e-mail address had permanent fatal errors.
- Further e-mail address mail@example.com could be found on the disputed site.
- A contact form could also be found on the disputed site to which the information about the administrative proceeding was also sent.

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 were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Complainant owns the trademark AUTODISTRIBUTION and the domain name <autodistribution.fr>, which are used in connection with its goods or services.

The Respondent registered the disputed domain name <autodistrlbution.com> on September 5, 2024. The disputed domain name resolves to a template website with no meaningful content.

The primary difference between the disputed domain name and the Complainant’s trademark is a single letter variation, where the letter "I" in "distribution" is replaced by the letter "L".

The Complainant challenges the Respondent's registration of the disputed domain name under paragraph 4(a)(i) of the Uniform Dispute Resolution Policy ("Policy") and seeks relief that the disputed domain name be transferred to the Complainant.

The Respondent failed to file any administrative compliant response.

For the reasons articulated in the Panel’s reasons above, the Complainant has satisfied the Panel of the following:

(a) The disputed domain name is identical to or confusingly similar to the Complainant’s well-known trademark AUTODISTRIBUTION.

(b) The Respondent has no rights or legitimate interests in respect of the disputed domain name.

(c) The disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **autodistrlbution.com**: Transferred

PANELLISTS

Name	**William Lye OAM KC**

DATE OF PANEL DECISION 2024-10-14

Publish the Decision