Decision for dispute CAC-UDRP-107013

Case number	CAC-UDRP-107013
Time of filing	2024-10-29 10:35:56
Domain names	leroymerlinhome.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	GROUPE ADEO

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	VIA GOGO

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 trademark LEROY MERLIN, which is registered as a word mark for many products and services worldwide and which include:

- The international trademark LEROY-MERLIN, registered on 15 July 1992, under number 591251;
- The international trademark LEROY MERLIN, registered on 14 August 1998, under number 701781;
- The Brazilian trademark LEROY-MERLIN, registered on 15 September 1998, under number 819162027;
- The European trademark LEROY MERLIN, filed on 27 April 2012, registered on 7 December 2012, under number 10843597;
- The European trademark LEROY MERLIN, filed on 2 July 2012, registered on 2 October 2013, under number 11008281.

FACTUAL BACKGROUND

According to the Complainant, GROUPE ADEO is a French company specializing in the sale of articles covering all sectors of the home, the development of the living environment and DIY, both for individuals and professionals. The pioneering company of GROUPE ADEO is LEROY MERLIN, created in 1923. LEROY MERLIN is a leading DIY retailer in the home improvement and living environment market, with 30.000 employees in France.

The Complainant is the owner of numerous domain names comprising the mark LEROY MERLIN, such as the domain names

<leroymerlin.fr> registered on 12 September 1996 and <leroymerlin.com> registered on 13 September 1996.

The disputed domain name <leroymerlinhome.com> was registered on 12 October 2024. The Complainant states that the website that is operated under the disputed domain name resolves to an online shop displaying the Complainant's trademark and selling competing products.

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).

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 disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

According to the Complainant, the disputed domain name incorporates in full the Complainant's LEROY MERLIN trademark. The Complainant asserts that the addition of the term 'home' does not prevent the disputed domain name from being confusingly similar to its LEROY MERLIN trademark.

The generic Top-Level Domain extension of the disputed domain name, in this case ".com", is typically disregarded under the confusing similarity test, as it is a standard requirement for registration.

This is not being disputed by the Respondent.

Therefore, the Complainant concludes, and the Panel agrees, that the disputed domain name is confusingly similar to the Complainant's trademark.

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

The Complainant states that the Respondent is not related with nor authorized or licensed by the Complainant to make any use of the Complainant's trademark, or apply for registration of the disputed domain name. In addition, the Complainant asserts that it

does not carry out any activity for, nor has any business with the Respondent.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. According to past panel decisions, a Respondent is not commonly known by the disputed domain name if the Whois information was not similar to the disputed domain name (see Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The panel therefore finds under Policy ¶ 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii).").

Furthermore, the Complainant demonstrates that the disputed domain name redirects to the website https://leroymerlinfr.myshopify.com/, which is an online shop displaying the Complainant's trademark and selling competitive products. According to the Complainant, the Respondent uses the disputed domain name to host a website to impersonate the Complainant and attempt to mislead consumers into thinking that the goods purportedly offered for sale on the website originate from Complainant.

The Panel finds that the Complainant has shown that the Respondent has not made legitimate use of the disputed domain name for a bona fide offering of goods or services. In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the domain name.

3. The disputed domain name is registered and is being used in bad faith

The Complainant refers to past panels that have acknowledged the Complainant's trademark's reputation (see WIPO Case No. D2022-2292, Groupe Adeo v. Nicolas Malfate; WIPO Case No. D2016-1451, Groupe Adeo v. Peter Garcia, Leroy Merlin). In addition, the Complainant states the disputed domain name has been registered several years after the registration of Complainant's trademark.

The Complainant argues that, given the distinctiveness of the Complainant's trademark and its reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

The Complainant further demonstrates that the disputed domain name resolves to an online store displaying the Complainant's trademark and logo and selling competing goods. The Complainant finds that the Respondent registered and uses the domain name in bad faith to create confusion with Complainant's trademarks for commercial gain by using the identical domain name to resolve to a website offering goods in direct competition with the Complainant's products. Based on this, the Complainant contends that Respondent acquired the disputed domain name with the only intention to attract for commercial gain internet users to the Respondent's website.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **leroymerlinhome.com**: Transferred

PANELLISTS

Name	**Tom Heremans**

DATE OF PANEL DECISION 2024-12-03

Publish the Decision