Decision for dispute CAC-UDRP-107404

Case number	CAC-UDRP-107404
Time of filing	2025-03-13 14:04:09
Domain names	leroypasmerlin.xyz

Case administrator

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

Complainant

Organization	GROUPE ADEO

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Yannick Chastin

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 trademark registrations for LEROY MERLIN in both word and figurative forms. Its trademark registrations include the following:

- International trademark registration No. 591251, registered since July 15, 1992 which includes a designation of Morocco;
- International trademark registration No. 701781, registered since August 14, 1998;
- European Union trademark registration No. 10843597, registered since April 27, 2012; and
- European Union trademark registration No. 11008281, registered since July 2, 2012.

FACTUAL BACKGROUND

The Complainant is a French company specialising in the sale of articles covering all sectors of the home, the development of the living environment and DIY for both individuals and professionals. The pioneering company of the Complainant is Leroy Merlin, a company incorporated in 1923, which is one of the leading DIY retailers in the home improvement and living environment market in France. Leroy Merlin has over 28,000 employees in France.

The Complainant owns various domain names incorporating the LEROY MERLIN trade mark, including:

- <leroymerlin.fr>, registered on December 9, 1996; and
- <leroymerlin.com>, registered on September 13, 1996.

The Respondent is identified in the registration information as Yannick Chastin of Marrakech, Marrakech, 40000, Morocco.

The disputed domain name is <leroypasmerlin.xyz>, registered on March 1, 2025. At the time of filing the Complaint, the disputed domain name resolved to an index page. Its MX servers are also 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.
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

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns registered trademark rights in the LEROY MERLIN trade mark.

The disputed domain name contains the entirety of the Complainant's LEROY MERLIN trade mark with the addition of the term "pas" inserted between the words "Leroy" and "Merlin". The Complainant asserts that the addition of the term "pas" is insufficient to avoid a finding of confusing similarity to the LEROY MERLIN trade mark. The Panel agrees. The distinctive elements of the Complainant's LEROY MERLIN trade mark are identifiable in the disputed domain name. The Panel notes that the Respondent is Moroccan or based in Morocco where French is spoken. The word "pas" in French means "not" or signifies the negative. The Panel is of the view that this term, whether perceived as meaningless or descriptive, does not prevent a finding of confusing similarity under the first element of paragraph 4(a)(i) of the Policy. (See Sections 1.7 and 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0").).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trade mark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once a complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name.

In the present case, the Complainant has demonstrated a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. The Complainant provided evidence that it owns trademark rights in the LEROY MERLIN mark long before the disputed domain name was registered. The Respondent is not affiliated with the Complainant and was not licensed or otherwise authorized by the Complainant to use the Complainant's LEROY MERLIN trade mark or to register it in a domain name. There is no evidence that the Respondent has been commonly known by the disputed domain name.

The disputed domain name was registered over 30 years after the first trademark registration for LEROY MERLIN was obtained, which includes the territory of Morocco where the Respondent is based. The disputed domain name was also registered over a hundred years after the Leroy Merlin company was established.

The Respondent failed to rebut the Complainant's prima facie case showing he has rights or legitimate interests in the disputed domain name. There is no evidence to show that the Respondent has used or made demonstrable plans to use the disputed domain name for any legitimate purpose. The disputed domain name resolves merely to an index page.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant must also show that the Respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)).

The LEROY MERLIN mark is a distinctive trade mark and on the face of it, very well-established, having been used for a century. The trade mark is exclusively associated with the Complainant and it would be hard to conceive of any good faith registration and use by the Respondent of the disputed domain name which incorporates the LEROY MERLIN mark.

The disputed domain name resolves to an index page, which appears to offer a download of a file. For all intents and purposes, the Respondent's website is an inactive webpage. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the WIPO Overview 3.0. The Panel further notes that the MX servers of the disputed domain name have been configured, which allows emails bearing the domain name to be sent, which may allow the Respondent to pass off as or impersonate the Complainant or its subsidiary to the Complainant's customers. Having considered the available record and the totality of the circumstances, including: (i) the distinctiveness of the LEROY MERLIN trade mark, (ii) the composition of the disputed domain name, (iii) the reputation of the Complainant's mark, (iv) the Respondent's failure to submit a response or any evidence of actual or contemplated good-faith use, and (iv) the fact that the MX servers of the disputed domain name are configured, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel therefore concludes that the disputed domain name was registered and 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. **leroypasmerlin.xyz**: Transferred

PANELLISTS

Name	**Francine Tan**

DATE OF PANEL DECISION 2025-04-13

Publish the Decision