

## **ADMINISTRATIVE PANEL DECISION**

Groupe La Centrale v. Klaus Hertz  
Case No. D2023-4925

### **1. The Parties**

The Complainant is Groupe La Centrale, France, represented by MIIP MADE IN IP, France.

The Respondent is Klaus Hertz, Germany.

### **2. The Domain Name and Registrar**

The disputed domain name <lacentraleinfo.com> is registered with Hello Internet Corp (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 27, 2023. On November 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 28, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint (Information unavailable). The Center sent an email communication to the Complainant on November 28, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 29, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on January 17, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

The Complainant is based in France and provides classified advertisements (“ads”) in the automotive field.

The Complainant, in addition to the domain names <lacentrale.fr> and <lacentrale.com>, respectively registered on August 22, 1996, and January 17, 1997, is the owner of the following, amongst other, trademark registrations:

- French trademark registration No. 3036751 for the word mark LA CENTRALE, registered on June 6, 2000, successively renewed, in classes 16, 35, 36, 38, 41, 42, and 45;
- French trademark registration No. 4068666 for the word mark LA CENTRALE, registered on February 14, 2014, in classes 12, 16, 35, 36, 37, 38, 39, 41, and 42; and
- European Union trademark registration No. 001919182 for the word trademark LA CENTRALE, registered on October 24, 2000, successively renewed, in classes 16, 35, 36, 38, 41, and 42.

The disputed domain name was registered on March 29, 2023.

The Complainant has provided evidence that the disputed domain name resolved to a webpage offering alleged HERMÈS bags (Annexes 1 and 5 to the Complaint) with the mention “Buying fake hermes bags is a sound fashion investment”, having the Complainant’s representatives contacted Hermès International in connection with such use (Annexes 6 and 7 to the Complaint), after which the disputed domain name resolved to a parked webpage stating, in Chinese, that the website could not be found, later remaining inactive (Annex 8 to the Complaint).

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant’s widely and notoriously known LA CENTRALE trademark, which has already been recognized by past UDRP decisions which stated that “The Complainant has shown prior rights to the disputed domain name as well as established its notoriety” (in French “*Le Requérant a démontré que ses droits sont antérieurs à l’enregistrement des noms de domaine litigieux et a bien établi sa notoriété.*” see *Car&Boat Media v. Jean-François Rouault*, WIPO Case No. [D2016-1777](#)) and that “As the Complainant has shown, a simple search on the Internet would have allowed it to learn press articles demonstrating the Complainant’s notoriety and its existence” (in French “*Comme l’a démontré le Requérant, une simple recherche sur Internet lui aurait permis de prendre connaissance de l’ensemble des articles de presse démontrant la notoriété du Requérant et son existence.*” See *Groupe La Centrale v. WhoisGuard Protected, WhoisGuard, Inc. / Zen Femi*, WIPO Case No. [D2020-3368](#)).

Moreover, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name given that:

- (i) the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services given its use in connection with the sale of counterfeit Hermès bags and later passive holding of the disputed domain name;
- (ii) the Respondent does not hold trademark rights over the “La Centrale Info” expression (Annex 11 to the Complaint);

- (iii) being the Respondent named Klaus Hertz, the Respondent is not commonly known by the disputed domain name; and
- (iv) there is no business relationship, or any link of any nature, existing between the Complainant and the Respondent.

Furthermore, the Complainant submits that the Respondent registered the disputed domain name in bad faith likely because he was aware of the Complainant's reputation; there being no good faith use made by the Respondent of the disputed domain name which first was used in connection with the sale of counterfeit Hermès bags and later passively held by the Respondent.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of other term ("info") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that indicate a respondent's rights to or legitimate interests in a disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) the Respondent, as an individual, business, or other organization, has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph(c) of the Policy, any rights to or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a prima facie case against the Respondent.

In that sense, and according to the evidence submitted, the Complainant has made a prima facie case against the Respondent that the Respondent has not been commonly known by the disputed domain name, and neither has registered any trademark for the term LA CENTRALE or "la centrale info" nor is there a business relationship, or any link of any nature, existing between the Complainant and the Respondent.

Also, the absence of any indication that the Respondent, named Klaus Hertz, has rights in a term corresponding to the disputed domain name, or any possible link between the Respondent and the disputed domain name that could be inferred from the details known of the Respondent or the webpage relating to the disputed domain name, corroborate with the Panel's finding of the absence of rights or legitimate interests.

The previous uses of the disputed domain name (resolving to a website offering alleged HERMES bags or a parking page) do not confer rights or legitimate interests on the Respondent.

Under these circumstances and absent evidence to the contrary, the Panel finds on balance that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

The Panel finds the second element of the Policy has been established.

## **C. Registered and Used in Bad Faith**

The Policy indicates in paragraph 4(b) that bad faith registration and use can be found in view of:

- (i) circumstances indicating that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring it to the complainants who are the owner of a trademark relating to the disputed domain name or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or

- (iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The registration and use of the disputed domain name in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name, not having submitted a response;
- (ii) the well-known status of the Complainant's trademark;
- (iii) the disputed domain name reproduces the entirety of the Complainant's trademark and is likely to unduly profit from the value of the Complainant's trademark;
- (iv) the indication of what appears to be false contact details, not having the Center been capable of delivering the written notice to the Respondent.

For the reasons stated above, the Panel finds on balance that the disputed domain name was registered and is being used in bad faith.

The third element of the Policy has therefore been established.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <lacentraleinfo.com> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: January 31, 2024