Panel Decision for dispute CAC-ADREU-007310

Case number	CAC-ADREU-007310
Time of filing	2017-02-20 12:54:30
Domain names	MATEL-GROUP.eu

Case administrator

	Aneta Jelenová (Case admin)

Complainant

Organization	MATEL GROUP FRANCE

Respondent

Name	EMMANUEL VERDIN

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

The Complainant has submitted a document in French named "Récépissé de Dépôt de Plainte" dated March 10, 2016, which is a receipt of submission of a report by a representative of the Complainant to the French police authorities regarding fraud charges without mentioning the Domain Name. Further documentation has been submitted (cease and desist letter and e-mail correspondence) with reference to the use of the Domain Name asserting theft of identity by the Respondent.
The Panel is, however, not aware of any proceeding that is pending or has been decided, which relates to the disputed Domain Name.

FACTUAL BACKGROUND

The Complainant is a French company running its business under the company name MATEL GROUP.

The Complainant has proved to be owner of the following trademarks:
- International word trademark 'MATEL' no. 1219086 registered on January 10, 2014 in classes no. 6, 9, 11, 37, 42 based on a French trademark, designating Australia, Japan, People's Republic of China, Russian Federation, Principality of Monaco, Switzerland
- Untied States word trademark 'MATEL' no. 4,524,515 registered May 6, 2014 in classes 9.

The Complainant also uses the domain name <MATEL.FR>.

The Domain Name <MATEL-GROUP.EU> was registered on February 24, 2016. The Respondent in this proceeding and the registrant of the Domain Name is Emmanuel Verdin.

The Complainant has requested the transfer of the Domain Name and satisfies the general eligibility criteria for registration set out in Paragraph 4(2)(b) of Regulation (EC) No 733/2002.

The administrative proceeding commenced on November 10, 2016.

No administratively compliant Response has been filed.

A. COMPLAINANT

The Complainant asserts the following facts, which are not contested by the Respondent:

- to be owner of various trademarks registered worldwide;
- the Respondent has used the Domain Name for contacting the Complainant's clients by e-mail, creating the false impression that the e-mails were sent by the Complainant (called by the Complainant as "a clear case of identity theft"), placing unsolicited orders and

obtaining unauthorized information about the Complainant.

The Complainant has not argued any further factual and legal grounds.

B. RESPONDENT

The Respondent has not filed a Response.

DISCUSSION AND FINDINGS

According to Paragraph B11(d)(1) of the ADR Rules, the Panel issues a decision granting the remedies requested under the Procedural Rules in the event that the Complainant proves:
(i) The domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or Community law and; either
(ii) The domain name has been registered by the Respondent without rights or legitimate interest in the name; or
(iii) The domain name has been registered or is being used in bad faith.

The Complaint consist of few lines and in general is greatly lacking in substance and not of the quality expected in a legal proceeding, especially considering that the Complainant is represented by a counsel.

Notwithstanding the Complainant's cursory arguments, this Panel reaches its conclusion, because the Complainant provided implicit proof of the elements required by the ADR Rules to obtain the relief it has requested.

I. Identity or confusing similarity of the Domain Name to the Complainant's protected rights

The Complainant has asserted and proved to be owner of an International and a US trademark, both consisting in the word MATEL. Considering that the ADR Rules require that the Complainant's rights is recognized or established by the national law of a Member State and/or Community law, for the purposes of this proceeding, the Panel takes into account only the International trademark of the Complainant, which is based on a French trademark according to the certificate of registration submitted by the Complainant.

It is a consensus view among the panels that for assessing identity or confusing similarity the .eu suffix has to be disregarded (Overview of CAC Panel Views on Selected Questions of the Alternative Dispute Resolution for .EU Domain Name Disputes, hereinafter "Overview of .EU Panel Views").

The Domain Name is confusingly similar to the Complainant's company name (MATEL GROUP) and trademark (MATEL), because it comprises in its entirety the word MATEL which is the distinctive element of the Complainant's marks. The addition of a generic term “group” and/or a hyphen between the words MATEL and GROUP neither affects the attractive power of the dominant part of such marks, nor is sufficient to negate the confusingly similarity between the Domain Name and Complainant’s marks.

II. Rights or legitimate interest of the Respondent in the name

According to the consensus view in domain name disputes the Complainant needs to establish a prima facie case concerning the Respondent's lack of rights or legitimate interest. Then the onus shifts to the Respondent to rebut the Complainant's assertions in such regard (Overview of .EU Panel Views).

The Complainant has not authorized the Respondent to register the Domain Name <MATEL-GROUP.EU>.

The Complainant has submitted e-mail exchanges, which show that, prior to any notice of the dispute, the Domain Name was used to forward communications, creating the false impression that the e-mails were sent by the Complainant. Therefore, it is clear for this Panel that the Respondent's intent was to mislead the consumers or harm the reputation of the Complainant and its protected rights.

Furthemore, the Respondent is a natural person named Emmanuel Verdin and there is no evidence that he has been commonly known by the Domain Name <MATEL-GROUP.EU>.

The Panel finds that the Complainant has established its prima facie case and without any evidence from the Respondent to the contrary, the Panel is satisfied that the Respondent lacks rights or legitimate interest in the Domain Name.

III. Bad faith

Paragraph B11(f) contains a non-exhaustive list of the circumstances, which may be regarded by the Panel as indicia of bad faith.

The use of the Domain Name <MATEL-GROUP.EU> for sending e-mails by creating the false impression that such communications were sent by the Complainant is sufficient to demonstrate that the Domain Name has been registered or is being used in bad faith.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that

the Domain Name <MATEL-GROUP.EU> be transferred to the Complainant.

PANELISTS

Name	Avvocato Pierfrancesco Carmine Fasano

DATE OF PANEL DECISION 2017-02-17

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Domain Name: <MATEL-GROUP.EU>

II. Country of the Complainant: France, country of the Respondent: UK

III. Date of registration of the Domain Name: 24 February 2016

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. International word trademark registered in Australia, Japan, People's Republic of China, Russian Federation, Principality of Monaco, Switzerland and based on a French trademark, reg. No. 1219086, for the term of 10 years, registered on January 10, 2014 in respect of goods and services in classes 6, 9, 11, 37, 42.
2. company name: MATEL GROUP

V. Response submitted: No

VI. Domain Name is confusingly similar to the protected rights of the Complainant

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No
2. Why: The Complainant has not authorized the registration of the Domain Name by the Respondent. The Respondent is not commonly known by the Domain Name. The Domain Name has been used to send e-mails, creating the false impression that thet were sent by the Complainant, hence, there is a clear intent of diverting the consumers or harming the reputation of the Complainant and its protected rights.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: The domain has been used to send communications creating the false impression that thet were sent by the Complainant.

IX. Other substantial facts the Panel considers relevant: None.

X. Dispute Result: Transfer of the disputed Domain Name.

XI. Procedural factors the Panel considers relevant: None.

XII. Is Complainant eligible? Yes