

DECISION OF THE THIRD-PARTY DECIDER

Industeel France S.A. / Pankaj Kumar Chaurasia

Case no. 444202: industeels.be

1. The parties

- 1.1. **Complainant: INDUSTRIEL FRANCE**, with registered office at Immeuble “Le Cézanne” 6 rue André Campra, 93200 Saint-Denis, France,

Represented by:

Mrs. Enora Millocheau, counsel at Nameshield, with office at 79, rue Desjardins, 49100 Angers, France,

- 1.2. **Domain name holder: Pankaj Kumar Chaurasia**, Pandurang wadi 401107 Mumbai Maharashtra INDIA (e-mail: pankajchaurasia95988@gmail.com).

2. Domain name

Domain name: **industeels.be**
Registered on: 6 August 2023

hereafter referred to as “the domain name”.

3. Procedure

On 30 August 2023, Complainant filed a complaint with exhibits (8 in total) with the Belgian Centre for Arbitration and Mediation (CEPANI-CEPINA) concerning the domain name.

The Domain name holder did not file a response to the complaint.

The Complainant offered the possibility to the Domain name holder to voluntarily transfer the Domain name within 7 calendar days as from the filing of the complaint. The domain name holder did not react to this offer.

On 16 October 2023, the Complainant and the Domain name holder were notified that the undersigned had been appointed as Third-Party Decider to settle the dispute.

Pursuant to Article 13 of the CEPANI Rules for domain name dispute resolution the deliberations were closed on 23 October 2023.

The Complainant declared that there are no other legal proceedings in relation to the domain name.

4. Factual background information

Having examined the complaint submitted by Complainant, the Third-Party Decider finds that the following facts have been established.

Complainant is a subsidiary of ArcelorMittal, specializing in steel production.

Complainant is the owner of several trademark registrations for Industeel, covering various countries. The Complainant specifically refers to its EU trade mark registration no. 001920438 for the word mark INDUSTRIEEL, registered on 18 January 2002, and to its International trade mark registration no. 745241 for the word mark INDUSTRIEEL, registered on 5 October 2000 and designating the following countries: AU, JP, NO, SG, TR, CH, CN, EG, IR, KP, MA, RU and SG.

Complainant also owns several Industeel domain names, such as industeel.net and industeel-france.com, registered since 12 December 2006 and 16 November 2018, respectively.

The Domain name holder registered the domain name on 6 August 2023.

The corresponding website www.industeels.be leads to a parking page.

5. Position of the parties

5.1. Position of Complainant

Complainant request the Third-Party Decider to order the transfer of the domain name to Complainant, stating that the conditions thereto are met:

(i) Domain name is identical or confusingly similar to Complainant's trademark

Complainant states that the domain name is confusingly similar to the Complainant's INDUSTRIEEL trade mark because the Complainant's trade mark is entirely included in the domain name, which differs from the trade mark only in the added character 'S' at the end. The addition of the ccTLD '.be' does not change that.

(ii) Domain name holder has no right or legitimate interest in the domain name

Complainant states that the Domain name holder is not known by the domain name and is not authorized to register and use the INDUSTRIEEL trademark as a domain name. Complainant confirms that the Domain name holder is in no way affiliated with and has no commercial relationship with Complainant, and has not received any license or authorisation from the Complainant to use the Complainant's INDUSTRIEEL trade mark or to apply for registration of the domain name.

Complainant also points out that the Domain name holder hasn't used the disputed domain name since its registration and that this confirms that the Domain name holder has no demonstrable plan to use the domain name.

Complainant concludes therefrom that the Domain name holder has no rights or legitimate interests in the domain name.

(iii) The domain name has been registered and is being used in bad faith

Complainant states that its trade mark INDUSTEEL is distinctive and refers to a decision of the Czech Arbitration Court regarding the domain name *industeels.com* (CAC-UDRP-103740). Complainant also states that "INDUSTEEL" is only known in connection with Complainant, and that this is demonstrated by the results of a Google search on the term "INDUSTEEL" showing only results that relate to Complainant. The term also has no dictionary meaning.

In view of these circumstances, Complainant concludes that the Domain name holder must have had full knowledge of Complainant's trade marks when filing the domain name.

Complainant also states that the Domain name holder has not been making lawful use of the domain name since its registration because it refers to a parking page, and that such passive holding of a domain name is an indication of use in bad faith.

On these bases, the Complainant concludes that the domain name was registered and is being used in bad faith.

5.2. Position of the Domain name holder

The Domain name holder did not file any response to the Complaint with CEPANI.

6. Discussion and findings

Pursuant to Article 16.1 of the CEPANI Rules for domain name dispute resolution, the Third-Party Decider shall rule on domain name disputes following the parties' views and in accordance with the dispute resolution policy of DNS.be, the registration agreement and following the provisions of the CEPANI Rules for domain name dispute resolution.

Pursuant to Article 10(b)(1) of the Terms and conditions for .be domain name registrations, the Complainant must prove that:

1. the Domain name holder's domain name is identical or confusingly similar to a trademark, a trade name, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which Complainant has rights; and
2. the Domain name holder has no rights or legitimate interests in the domain name; and

3. the Domain name holder's domain name has been registered or is being used in bad faith.

6.1. The domain name is identical to a trademark of Complainant

To meet the first condition of Article 10(b)(1) of the Terms and conditions for .be domain name registrations, the domain name must be either identical or confusingly similar to a sign owned by the Complainant.

In the case at hand, the domain name only differs from the Complainant's registered trade mark INDUSTEEL in one character, i.e. the added character 'S' and added at the end. This results in a confusing similarity, if not quasi-identity, of the trade mark and the Complainant's registered trade mark.

The first condition of Article 10(b)(1) is therefore fulfilled.

6.2. The Domain name holder has no right or legitimate interests in the domain name

To meet the second condition of Article 10(b)(1) of the Terms and conditions for .be domain name registrations, Complainant must prove that the Domain name holder has no right to or legitimate interest in the domain name.

The Third-Party Decider is of the opinion that Complainant has made it plausible that the Domain name holder has no rights or legitimate interests in the domain name.

First, there are no indications that the Domain name holder has used the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services or made demonstrable preparations for such use. No evidence is available showing that the Domain name holder would have been commonly known by the domain name.

There are also no indications that the Domain name holder is making a legitimate and non-commercial or fair use of the domain name. The domain name merely refers to a parking page.

In general, there does not appear to be any potentially legitimate connection between the Domain name holder and the domain name.

Finally, the Domain name holder did not file any reply to the complaint.

The Third-Party Decider therefore concludes that the Domain name holder has no rights or legitimate interests in the domain name and that the second condition of Article 10(b)(1) is also fulfilled.

6.3. The domain name has been registered or is being used in bad faith

The third condition of Article 10(b)(1) of the Terms and conditions for .be domain name registrations requires the Complainant to demonstrate that the Domain name holder registered or used the domain name in bad faith. Article 10(b)(2) provides a non-exhaustive list of circumstances in which case a domain name is considered to be used or registered in bad faith. Amongst these circumstances feature the registration of the domain name with the purpose to sell it at an extortion price or the use of the domain

name to attract, for commercial gain, Internet users by creating confusion with the complainant's trade mark.

In the case at hand, even though the Domain name holder has not tried to sell the domain name to Complainant, and the domain name leads to a parking page, the Third-Party decider is of the opinion that the bad faith of the Domain name holder has been sufficiently established.

This is because the circumstances listed in Article 10(b)(1) of the Terms and conditions for .be domain name registrations are non-exhaustive and bad faith can also be inferred from other relevant circumstances such as the passive holding of a domain name like in the case at hand (see e.g. CEPANI decision no. 444110 regarding the domain name clarins-online.be and CEPANI decision no. 44471 regarding the domain name blablabus.be). In addition to the passive holding of the domain name, the following circumstances allow inferring bad faith of the Domain name holder:

- Taking into account the distinctive character of Complainant's INDUSTEEL trade mark, which seems to be exclusively associated with the Complainant, and also taking into account the worldwide reputation in the steel sector of the Complainant and of its mother company, ArcelorMittal, which has its roots in India (the country of residence of the Domain name holder) and Belgium, it is improbable that the Domain name holder was not aware of Complainant's rights when he registered the domain name.
- The fact that the Domain name holder did not respond to the complaint is also indicative of its bad faith.
- Any good faith use of the domain name by the Domain name holder is implausible.

As a consequence, the third condition of Article 10(b)(1) is also met.

7. Decision

Consequently, pursuant to Article 10(e) of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, the Third-Party Decider hereby rules that the domain name registration for the domain name industeels.be shall be transferred to Complainant.

Brussels, 6 November 2023

DocuSigned by:

B30343736723430...

GOMMERS, Carina
The Third-Party Decider