

WIPO Arbitration and Mediation Center  
Zaak-/rolnummer: DNL2015-0045  
Datum: 9 november 2015

### 1. The Parties

Complainant is TMG Landelijke Media B.V. of Amsterdam, the Netherlands, internally represented.

Respondent is [persoonsnaam] of Concriers, France.

### 2. The Domain Name and Registrar

The disputed domain name <services-speurders.nl> (the "Domain Name") is registered with SIDN through Amen Nederland B.V.

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 28, 2015. On August 28, 2015, the Center transmitted by email to SIDN a request for registrar verification in connection with the Domain Name. On August 31, 2015, SIDN transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details. In response to a notification by the Center that the Complaint was administratively deficient, Complainant filed an amended Complaint on September 3, 2015. The Center verified that the Complaint together with the Amended Complaint satisfied the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the "Regulations").

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on September 8, 2015. In accordance with the Regulations, article 7.1, the due date for Response was September 28, 2015. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on September 29, 2015.

The Center appointed Remco M. R. Van Leeuwen as the panelist in this matter on October 27, 2015. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

### 4. Factual Background

Complainant is one of the largest news media companies in the Netherlands. Complainant's core activity consists of creating and marketing content. Complainant's portfolio consists of various well-known Dutch brands, *inter alia*, the trademark SPEURDERS, which is also a so-called series trademark; Complainant also is the holder of and uses the trademarks AUTOSPEURDERS, REISSPEURDERS, VAARSPEURDERS and WOONSPEURDERS. Complainant is, *inter alia*, holder of the trademark SPEURDERS, registered in the Benelux on January 20, 1998, registration number: 0626296, for goods in class 9 and 16 and services in class 35 and 41 (hereinafter referred to as the "Trademark"). Complainant has used the Trademark since 1922 in its daily newspaper "De Telegraaf" and since 1998 online ("www.speurders.nl"). According to Complainant, as a consequence of this use, the Trademark is very well-known to the public.

The date of registration of the Domain Name is July 25, 2015. According to Complainant, the website which was connected to the Domain Name deliberately envisaged to create the impression that it forms part of "www.speurders.nl" the website of Complainant. In addition hereto, Complainant contends, fraudulent emails were sent from an email address at the Domain Name.

## **5. Parties' Contentions**

### *A. Complainant*

Complainant bases its Complaint on the Trademark.

#### The Domain Name is identical or confusingly similar to the Trademark

Complainant contends that the Domain Name is highly similar to the Trademark. The main element in the Domain Name is the word "speurders". The word "services" hardly contributes to the distinguishing character of the Domain Name. Therefore confusion is very likely. This all the more because the trademark SPEURDERS is a series trademark. The use of the combination of "Speurders" with an addition is thus usual for Complainant. Also actual confusion appears from the reactions Complainant receives from its customers, who abusively assume that Complainant is the owner of the website "www.services-speurders.nl", according to Complainant.

#### No rights or legitimate interests

According to Complainant, Respondent has no rights to or legitimate interests in the Domain Name. Complainant has not received a reaction to its written demand to cease the activities under the Domain Name. It is clear that Respondent has only registered the Domain Name to take unfair advantage of Complainant's well-known Trademark, according to Complainant.

#### The Domain Name has been registered in bad faith

Complainant asserts that the Domain Name has been registered in bad faith. The website "www.services-speurders.nl" shows the Trademark, as well as Complainant's device mark (the "dog's nose"), which is also registered in the Benelux (registration number 0757493). The visitors of this website are invited to log in with their Speurders account. Also the footer of this website refers to Complainant's domain name <speurders.nl> and is a direct copy of the footer on "www.speurders.nl".

Also, Complainant claims that Emails are being sent (by Respondent) from the email address "info@services-speurders.nl" asking the addressees to log in to their "Speurders account" via "www.services-speurders.nl". This website is thus being used for the fraudulent acquisition of confidential data of Complainant's customers ("phishing"). The website is therefore obviously malicious, according to Complainant.

### *B. Respondent*

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

As Respondent has not filed a response, the Panel shall rule on the basis of the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or fact. The Panel is entitled to further

inform itself by limited reference to matters of public record (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0"), paragraph 4.5<sup>1</sup>). The Panel notes that, in accordance with article 16.4 of the Regulations, the Center has fulfilled its obligation to employ reasonably available means to achieve actual notice of the Complaint to Respondent.

Pursuant to article 2.1 of the Regulations, Complainant's request to transfer the Domain Name must meet three cumulative conditions:

- a. the Domain Name is identical or confusingly similar to a trademark or trade name protected under Dutch law in which Complainant has rights, or other name by means of article 2.1(a) under II of the Regulations; and
- b. Respondent has no rights to or legitimate interests in the Domain Name; and
- c. the Domain Name has been registered or is being used in bad faith.

Considering these conditions, the Panel finds as follows:

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

Complainant has based its Complaint on its Trademark and has submitted a copy of its trademark registration demonstrating that it is the holder of the Trademark. The Trademark is protected under Dutch law.

The Domain Name consist of the components "services" and "speurders", wherein the addition of the first element is descriptive and the second element is identical to the Trademark. While the content of the website is typically disregarded under the first element of the Regulations the Panel notes that confusion is further evidenced by the undisputed fact that Complainant is approached by customers who are confused by the website linked to the Domain Name ("www.services-speurders.nl").

The Panel finds that the Domain Name is confusingly similar to the Trademark. Therefore, the first requirement of article 2.1(a) under I of the Regulations is met.

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

The Panel understands from the Complaint that Complainant has never licensed or otherwise authorized Respondent to use its Trademark in any way. As a result of its failure to submit a response, Respondent did not use the opportunity to show rights to or legitimate interests in the Domain Name. The Panel could not establish any indications that any of the circumstances as described in article 3.1 of the Regulations apply, nor that Respondent in any possible other way has a right to or legitimate interest in the Domain Name.

Based on the foregoing, the Panel finds that Complainant has fulfilled its obligation to establish *prima facie* that Respondent has no rights to or legitimate interests in the Domain Name and has met the second requirement of article 2.1(b) of the Regulations.

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

Considering the apparent well-known status of the Trademark (see also *TMG Landelijke Media B.V. v. Mike Hello*, WIPO Case No. DNL2015-0033), the Panel is of the opinion that Respondent was or should have been aware of Complainant and its Trademark at the time of registration of the Domain Name.

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<sup>1</sup> The Panel may refer to the WIPO Overview 2.0 as the mechanism of the Regulations is in part comparable to the Uniform Domain Name Dispute Resolution Policy ("UDRP").

Previous panels found that the incorporation of a well-known trademark in a domain name having no plausible explanation for doing so may be in itself an indication of bad faith (see *Intel Corporation v. The Pentium Group*, WIPO Case No. D2009-0273 in which the panel stated: "The incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith"). In this respect, the Panel notes that Respondent has not offered any such explanation.

Taking the evidence submitted by Complainant into account and in the absence of a response, the Panel agrees with Complainant's view that the emails sent (by Respondent) from the email address "info@services-speurders.nl", asking the addressees, Complainant's customers, to log in to their Speurders account via "www.services-speurders.nl", are sent in an attempt to acquire sensitive information for malicious reasons. Accordingly, the Panel finds that Respondent registered the Domain Name with the Trademark in mind and with this fraudulent intention. It is established case law that this so-called "phishing" activity constitutes bad faith use.

The specific cumulative circumstances in this case, in which the Domain Name is almost identical to the well-known Trademark and in which Respondent has provided no evidence whatsoever of any actual or contemplated good-faith use of the Domain Name, are indicative of bad faith on the part of Respondent in its registration and/or use of the Domain Name (see *The Coca-Cola Company v. P. Engbers*, WIPO Case No. DNL2012-0037). Having refrained from submitting a response, Respondent has failed to provide any evidence to the contrary.

On the above grounds, and considering article 10.3 of the Regulations, the Panel finds that the requirements of registration or use in bad faith of the Domain Name pursuant to article 2.1(c) of the Regulations have been met.

## 7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Domain Name, <services-speurders.nl>, be transferred to Complainant.

Remco M. R. Van Leeuwen  
Panelist