

WIPO Arbitration and Mediation Center
Case No.: DNL2019-0053
Date: 13 January 2020

1. The Parties

The Complainant is Google LLC, United States of America, represented by Brinkhof Advocaten, the Netherlands.

The Respondent is [X], India.

2. The Domain Name and Registrar

The disputed domain name <googleklantenservicenederland.nl> is registered with SIDN through PDR Ltd.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 27, 2019. On November 28, 2019, the Center transmitted by email to SIDN a request for registrar verification in connection with the disputed domain name. On November 29, 2019, SIDN transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center verified that the 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 the Respondent of the Complaint, and the proceedings commenced on December 5, 2019. In accordance with the Regulations, article 7.1, the due date for Response was December 25, 2019. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 26, 2019.

The Center appointed Alfred Meijboom as the panelist in this matter on January 6, 2020. 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

The Complainant is a Delaware limited liability company headquartered in California, United States of America.

The Complainant owns and exploits one of the most widely used search engines in the world, indexing one of the largest collections of searchable documents and content.

The Complainant owns a portfolio of trademark registrations for the GOOGLE trademark in a number of jurisdictions throughout the world, which it uses for its business, including:

- Benelux trademark No. 0694499, GOOGLE, registered on January 1, 2002;
- European Union trademark No. 001104306, GOOGLE, registered on October 7, 2005;

together to be referred to as “the GOOGLE trademark”.

In addition to the GOOGLE trademark, the Complainant owns the following figurative trademark registrations:

- European Union trademark No. 005685136,



, registered on September 24, 2012;

- European Union trademark No. 011278603,



, registered on April 22, 2013;

- European Union trademark No. 015086549,



, registered on July 1, 2016.

The Respondent registered the disputed domain name on September 12, 2019. The disputed domain name presently resolves to a website that prominently displays the GOOGLE trademark and the Complainant's figurative trademarks listed above, and suggests to be a Google helpdesk, offering technical support via a telephone number. The Complainant states that the phone number is out of service, but when the Panel by way of trial dialed the phone number, it was answered – after seemingly having been redirected – by a person claiming to be a helpdesk assistant of the Complainant. The Panel then disconnected the call.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its GOOGLE trademark. The disputed domain name incorporates the GOOGLE trademark in its entirety. The addition of the suffix ".nl" should be disregarded under the first element confusing similarity test, it merely being the country code Top-Level Domain ("ccTLD"). The addition of "klantenservicenederland" is entirely descriptive of the services that the Respondent purports to offer and does not increase the distinctiveness of the disputed domain name. Rather, it will increase the connection with the business and the trademarks of the Complainant.

Further, the Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name because – in short – (i) the Respondent is not commonly known under the disputed domain name, (ii) the Respondent has no registered trademarks that (partially) incorporate the disputed domain name, (iii) the Respondent has not been authorized by the Complainant to use its trademarks, (iv) the current use of the disputed domain name, as set out above, suggests endorsement by the Complainant, (v) the use of the disputed domain name is of a commercial nature (so is not legitimate noncommercial or fair use), and (vi) the website at the disputed domain name does not represent a bona fide offering of goods and services. The telephone number that is listed on the website at the disputed domain name is or has been used for

similar websites for products or services of other high-profile companies, such as Hewlett-Packard and Samsung. There is a pattern of registration by the Respondent of domain names that correspond to trademarks held by third parties.

Finally, the Complainant claims that the Respondent registered and uses the disputed domain name in bad faith. Given the global fame of the GOOGLE trademark, the fact that the GOOGLE trademark has been incorporated in its entirety in the disputed domain name, and the fact that the Respondent's website not only use the GOOGLE trademark, but also other distinctive trademark registrations of the Complainant that predate the registration of the disputed domain name, show that the disputed domain name has been registered with the Complainant's trademarks in mind, with the purpose of deliberately causing confusion amongst Internet users as to the source of the Respondent's website and attracting those users, for commercial gain, to its website. Moreover, the Complainant asserts that the Respondent has engaged in a pattern of conduct by registering domain names that correspond to well-known trademarks in the digital industry, which also indicates bad faith.

B. Respondent

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

6. Discussion and Findings

As the 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 in fact.

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 the Respondent.

Based on article 2.1 of the Regulations, a request to transfer the disputed domain name must meet three cumulative conditions:

- a. the disputed domain name is identical or confusingly similar to:
 - I. a trademark, or trade name, protected under Dutch law in which the Complainant has rights; or
 - II. a personal name registered in the General Municipal Register ("gemeentelijke basisadministratie") of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which the Complainant undertakes public activities on a permanent basis; and
- b. the respondent has no rights to or legitimate interests in the disputed domain name; and
- c. the disputed domain name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

It is established case law that the ccTLD ".nl" may be disregarded in assessing the similarity between the trademark on the one hand and the disputed domain name on the other hand (see, e.g., Roompot Recreatie Beheer B.V. v. Edoco LTD, WIPO Case No. DNL2008-0008).

The Respondent has incorporated in the disputed domain name, the GOOGLE trademark in its entirety, and added the descriptive term “klantenservicenederland” (Dutch for “customer services Netherlands”). The added term is entirely descriptive of the services that the Respondent purports to offer and therefore does not distinguish the disputed domain name from the GOOGLE trademark.

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s GOOGLE trademark. Consequently, the Panel finds that the Complainant has satisfied the requirement of article 2.1(a) of the Regulations.

B. Rights or Legitimate Interests

Article 2.1(b) of the Regulations requires the Complainant to demonstrate that the Respondent has no rights to or legitimate interests in the disputed domain name. This condition is met if the Complainant makes out a *prima facie* case that the Respondent has no such rights or legitimate interests and if the Respondent fails to rebut this (see, e.g., Technische Unie B.V. and Otra Information Services v. Technology Services Ltd., WIPO Case No. DNL2008 0002).

The Panel takes note of the various allegations of the Complainant, all of which remain unchallenged. The Panel finds no evidence on record that the Complainant has authorized the use of the GOOGLE trademark or the registration of the disputed domain name. Neither has the Panel been presented with proof that the Respondent is commonly known by the disputed domain name, or that the Respondent has any (prior) rights or legitimate interests in the disputed domain name.

The disputed domain name resolves to a website that in the opinion of the Panel clearly and intentionally creates confusion as to the source, sponsorship, affiliation or endorsement of such website. The use of the disputed domain name by Respondent misleadingly creates an association with the Complainant for commercial gain. Therefore, there is no bona fide offering of goods and services by the Respondent.

There is no evidence before the Panel to show that the Respondent has rights or legitimate interests in the disputed domain name. The Panel therefore finds that the Complainant has satisfied the requirement of article 2.1(b) of the Regulations.

C. Registered or Used in Bad Faith

Article 2.1(c) of the Regulations requires the Complainant to show that the disputed domain name was registered and/or is being used in bad faith.

It is obvious that the Respondent had the GOOGLE trademark in mind at the time he registered the disputed domain name, as the GOOGLE trademark (as well as other trademarks of the Complainant listed in paragraph 4 above) is one of the best-known trademarks in the world, “Google” is a coined term, and the addition of “klantenservicenederland” can only be explained if the Respondent had the GOOGLE trademark and/or the Complainant in mind.

Further, the disputed domain name is clearly used to attract Internet users to the website for commercial gain. Moreover, the fact that the telephone number was answered, when the Panel experimentally dialed it, by someone purporting to be a helpdesk employee of the Complainant when this is clearly untrue, suggests to the Panel that the telephone number is used to extort Internet users. These possibly fraudulent intentions are corroborated by the fact, as demonstrated by annex 9 of the Complaint, that the same telephone number is being used, likely again without authorization, as the helpdesk number on websites which mimic other well-known companies, such as Hewlett-Packard

and Samsung. This is indicative of a pattern of registration of domain names with fraudulent intent. The Panel notes that such scams unfortunately are common place.

For these reasons the Panel finds that the requirement of 2.1(c) of the Regulations has also 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 <googleklantenservicenederland.nl> be transferred to the Complainant.

Alfred Meijboom

Panelist