

DECISION OF THE THIRD-PARTY DECIDER

Senne Hoekman / Igor Stepanov

Case no. 444212 / domain name: sennehoekman.be

1. The Parties

1.1. Complainant: Mister Senne Hoekman
Paalseweg 90,
3980 Tessenderlo
BELGIUM

E-mail: senne.hoekman@gmail.com

Not represented

Hereafter referred to as the "Complainant"

1.2. Domain name holder: Mister Igor Stepanov
5 Predportovy 2-1 apt 240,
196240, Saint-Petersburg,
Russian Federation

Not represented

*Hereafter referred to as the "Domain Name Holder"
and/or "Registrant"*

2. Domain name

Domain name: <https://www.sennehoekman.be>
Registered on: February 01, 2024

Hereafter referred to as "the Domain Name".

3. Procedure

3.1. On the 20th of February 2024 Complainant submitted the Complaint Form to CEPANI (hereinafter referred to as "**The Complaint**") in view of a decision of a Third-Party Decider, according to the CEPANI Rules for domain name dispute resolution and the dispute resolution policy of DNS.be (hereinafter referred to as "**The Rules**") , incorporated in its general conditions.

3.2. The Domain Name Holder did not provide a formal response in accordance with article 6 of the Rules.

3.3. By email of March 27th, 2024 the Third-Party Decider was contacted by CEPANI and requested to fulfil the Declaration of Acceptance, Availability and Independence.

3.4. On March 28th 2024 the Third Party Decider duly submitted the Declaration of Acceptance, Availability and Independence to CEPANI.

3.5. On March 29th 2024 CEPANI appointed the Third-Party Decider pursuant to art.7.2 of the Cepani Rules. By same mail CEPANI informed both Complainant and Domain Name Holder of its appointment of the Third-Party Decider. Both Parties were informed that the deliberations shall be closed by April 4, 2024 and that the Third Party Decider should communicate its decision at the very latest by April 18, 2024.

3.6. On April 10th 2024 an Intermediary decision was granted by the Third-party Decider reopening the debates under Article 11.3 juncto 13 paragraph 2 of the CEPANI rules for domain name dispute resolution and Complainant was invited to provide proof of his legal identity. This intermediary decision was communicated by CEPANI to the Parties on April 11th 2024 and closing date for deliberations was set on April 22, 2024.

3.7. On April 17th 2024 the Complainant delivered a copy of:

- The front of his ID card
- The front of his driver's license
- The front of his international travel pass
- The front of a letter from his bank

4. Factual Background information

From a study of the file, the Third-Party Decider withholds the following facts as relevant:

- The Complainant is a Belgian citizen, born on 28th of August 1995 and Senne Hoekman is his full legal name since then;
- Since at least 2017 the Complainant registered the Domain Name;
- The Complainant provides evidence that he has been renewing the Domain Name until 2023 and for that he has used the Services of a registrar called Versio;
- The Complainant provides evidence (by use of screenshots from webarchive.org) that at least in 2022 and 2023 the Domain Name was exploited and that a website was developed presenting the Complainant as a "Master of Interaction Design";

- For some reason the registration of the Domain Name was not renewed end 2023 and lack of renewal the Domain Name was available as from February 1st 2024;
- On the same date, the Domain Name Holder registered the Domain Name;
- The Domain Name Holder has installed a webshop in a foreign language, i.e. in Bulgarian which is not an official language in Belgium;
- The webshop is fake and built by using templates available on a variety of HTML template providers;
- The Domain Name Holder has created a large number of subpages. As a result of this, Google results show (when looking for sennehoekman.be) lots of search results containing Complainant's name but referring to the fake webshop.

5. Position of the parties

5.1. Position of the Complainant

Although the Complainant is not referring to any of the specific Rules, Complainant requests the Third-Party Decider to order the transfer of the Domain Name, based on the following grounds:

- a) *The domain name is identical to his personal name being his own full legal name.*

When performing a Google search for his full name ("Senne Hoekman"), the Domain Name is shown as one of the first results. This situation has been and still is damaging to his online presence, reputation, and credibility as an individual and Belgian citizen.

- b) *The domain name holder has no rights or legitimate interests regarding the domain name.*

Since neither the contents, language or purpose of the website is linked to the Complainant in any way shape or form, there is no objective reason that the use of his full legal name is relevant or benefits the Domain Name holder.

- c) *The domain name holder acted in bad faith when registering or using the domain name.*

As to the registration: the first available date to buy the Domain Name was February 1st 2024, which was also the day it was registered by the Domain Name Holder. This strongly suggests that the Domain Name was purchased by a bot, script, crawler, or any other type of automated system that looks for newly available domains with a history of traffic.

As to the use: The homepage that was built by the Domain Name Holder has no real webshop functionality. A list of basic functionalities that can normally be found on websites/webshops are non-functional or missing:

1. The option to switch between languages does not work;
2. The currency (BGN) cannot be changed;
3. Items cannot be added to the cart;
4. Social media links in the footer have no destination;

5. The App Store image link has no destination;
6. No contact info is available anywhere.

The webshop (as is) uses a template that is available on a variety of HTML template providers as listed below. The Ninico-template was used and the logo on the webshop is unchanged and remains "Ninico" (rather than the company or name of the Domain name holder). The general layout of the template remains unchanged, and the top navigation bar is almost identical.

On top of that the website has been written in a foreign (Bulgarian) language without even having the option to change the language (this is the situation at the time of writing the Complaint on 19/2/2024). Since the website's only language is Bulgarian (not being one of the three official Belgian languages), this indicates that it is being used in bad faith.

Furthermore, the Complainant states that the domain holder is creating a large amount of subpages under <https://www.sennehoekman.be>. These pages are only used to redirect to <https://nl.aliExpress.com>. As a consequence, all (and especially Belgian) web users can be deceived through the use of Complainant's name when clicking on any of the AliExpress redirect links.

5.2. Position of the Domain name holder

The Domain Name Holder did not submit a response.

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 with due regard for the Policy and the CEPANI rules for domain name dispute resolution.

Pursuant to Article 10b (1) of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, the Complainant must provide evidence of the following:

- i) *the registrant's domain name is identical or confusingly similar to a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the complainant has rights; and*
- ii) *the registrant has no rights or legitimate interests in the domain name; and*
- iii) *the registrant's domain name has been registered or is being used in bad faith.*

6.1. The registrant's domain name is identical or confusingly similar to a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the complainant has rights.

The Complainant's personal name is Senne Hoekman. This corresponds to a personal name pursuant to article 10b (1) i) of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE.

The registrant's Domain Name is www.sennehoekman.be.

The Complainant provided proof of the fact that his full legal Surname is "Hoekman" and his Given Name is "Senne". Both names appear on his official Belgian ID-card and/or International Passport as well as his official Belgian Driving Licence.

According to established CEPANI case-law, country code top-level domains (ccTLDs) such as the suffix ".be" are not relevant to establish the identity or similarity between a domain name and a trademark. The ".be" extension indeed has no distinctive character within the domain name as it refers only to the geographical extension of the domain name.

In this light, the Third-Party Decider rules that the Domain Name is identical to the personal name "Senne Hoekman" in which Complainant has rights.

Therefore, the first condition of Article 10(b)(1)(i) of the DNS Policy is met.

6.2. The Registrant has no rights or legitimate interests in the domain name.

Previous CEPANI case law has established that the Complainant cannot be held to prove a negative fact. According to the same case law it suffices that the Complainant states that it has no knowledge of any circumstances showing that the Registrant has a right or legitimate interests in the Domain Name (see inter alia CEPANI 9 January 2023 No. 444176, "belfisu.be", 1 July 2022 No. 444167, "yslbeauty.be", 21 February 2022 No. 444140, "meguiarsshop.be").

The Domain Name Holder has not submitted any circumstances demonstrating that he has any rights or legitimate interests in the Domain Name.

Domain Name Holder seems to be a Russian citizen, residing in Saint-Petersburg. His personal name is not in any way identical or similar to Complainant's Name. His email address does not prove a right or legitimate interest in the Domain Name. The business he is conducting through the website does not in any way prove a right nor legitimate interest in the Domain Name. The evidence provided by Complainant (evidence "Senne Hoekman Ali Express redirect screenrecording 22-2-2024 1PM.mp4") proves on the contrary that by using a link to the Domain Name leads to a AliExpress webshop.

Whereas Complainant has provided rights or legitimate interests in the domain name that actually corresponds to his full legal Surname "Hoekman" and his Given Name is "Senne". Both names appear on his official Belgian ID-card and/or International Passport as well as his official Belgian Driving Licence.

In the present case, the Complainant asserts that the Domain Name Holder does not have any rights or legitimate interests in the Domain Name

Therefore, the second condition of Article 10(b)(1)(ii) of the DNS Policy is met.

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

Pursuant to Article 10(b)(2) of the DNS Policy the evidence of such in bad faith registration or use of a domain name can inter alia be demonstrated by the following circumstances:

- *circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity, or to a competitor of the complainant, for a price that exceeds the costs that the registrant can show are directly related to the acquisition of the domain name; Or*
- *the domain name was registered in order to prevent the owner of a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or a name of a geographical entity to use the domain name and that the registrant has engaged in a pattern of such conduct; or*
- *the domain name was registered primarily for the purpose of disrupting the business of a competitor; or*
- *the domain name was intentionally used to attract, for commercial gain, Internet users to the registrant's web site or other on-line location, by creating confusion with the complainant's trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of a geographical entity as to the source, sponsorship, affiliation, or endorsement of the registrant's web site or location or of a product or service on his web site or location.*
- *the registrant has registered one or more personal names without the existence of a demonstrable link between the registrant and the registered domain names.*

As to the registration.

From the evidence produced by Complainant it is clear that the Domain Name has been used for personal matters (evidence Web.archive.org.website capture 6-12-23/19-6-2023/01-12-2022) during a period from at least 2017 until 2023 (evidence Versio_verlengingDomeinnaam_factuur_3694275/3421827/3061251/2622370/2181807/1781518/1388999).

The Domain Name was not timely renewed by Complainant.

The Third-Party Decider refers to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0") under 3.2.1:

3.2.1 Additional bad faith consideration factors

Particular circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant's area of activity or natural zone of expansion), (ii) the chosen top-level domain (e.g., particularly where corresponding to the complainant's area of business activity or natural zone of expansion), (iii) the content of any website to which the domain name directs, including any changes in such content and the timing thereof, (iv) **the timing and circumstances of the registration (particularly following a product launch, or the complainant's failure to renew its domain name registration)**, (v) any respondent pattern of targeting marks along a range of factors, such as a common area of commerce, intended consumers, or geographic location, (vi) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant.

The mere fact that the Domain Name was immediately registered on the first day of becoming available, can thus be considered an element in assessing bad faith.

The Third-Party Decider also refers to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0") under 3.1.1.

3.1.1 How does a complainant prove that a respondent has registered or acquired a domain name primarily to sell the domain name to the complainant (or its competitor) for valuable consideration in excess of the respondent's costs related to the domain name?

....

"If on the other hand circumstances indicate that the respondent's intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant's trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include: (i) the respondent's likely knowledge of the complainant's rights, (ii) the distinctiveness of the complainant's mark, (iii) a pattern of abusive registrations by the respondent, (iv) website content targeting the complainant's trademark, e.g., through links to the complainant's competitors, (v) threats to point or actually pointing the domain name to trademark-abusive content, (vi) threats to "sell to the highest bidder" or otherwise transfer the domain name to a third party, **(vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name**, (viii) a respondent's request for goods or services in exchange for the domain name, (ix) a respondent's attempt to force the complainant into an unwanted business arrangement, (x) a respondent's past conduct or business dealings, or (xi) a respondent's registration of additional domain names corresponding to the complainant's mark subsequent to being put on notice of its potentially abusive activity.

As to the use.

From the evidence submitted by Complainant (site-sennehoekman.be 19-2-2024 6PM(006).png) the Domain Name is mainly used to create a large amount of subpages.

As evidenced, this results in a series of dozens of consecutive and matching search results in Google Search that all contain the entry "sennehoekman.be".

However, these results all automatically redirect to a nl.AliExpress.com website (evidence "Senne Hoekman Ali Express redirect screenrecording 22-2-2024 1PM.mp4").

No statement is provided by the Domain Name Holder about a link between him and this Aliexpress webshop.

In conclusion, therefore, it can be concluded that both in terms of registration and use, the Domain Name Holder has acted in bad faith.

Therefore, the third condition of Article 10(b)(1)(iii) of the DNS Policy is 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 "**Sennehoekman.be**" domain name is to be transferred to the Complainant.

Ghent, April 23, 2024

Stephane CRIEL
The Third-party Decider