



## CANADIAN INTERNATIONAL INTERNET DISPUTE RESOLUTION CENTRE

### DOMAIN NAME DISPUTE ADMINISTRATIVE PANEL DECISION

CIIDRC case number:	20098-CDRP	Decision date: March 29, 2023
Domain Name:	leerdammer.ca	
Panel:	Alan L. Limbury	
Complainant:	ROYAL LACTALIS LEERDAMMER	
Complainant's representative:	Laurent Becker of Nameshield	
Registrant:	Nameshield Inc.	

#### 1. PROCEDURAL HISTORY

The procedural history of this case was set out in a letter from the Canadian International Internet Dispute Resolution Centre to the Panel:

1. On February 28, 2023, Mr. Laurent Becker filed a Complaint on behalf of ROYAL LACTALIS LEERDAMMER. Upon a review of the Complaint, CIIDRC determined that the Complaint is in administrative compliance with Rule 3.2.
2. CIRA was notified of this proceeding on February 28, 2023, and on the same date, CIRA transmitted its verification response confirming the Registrant's identity. CIRA also confirmed that the Domain Name was placed on a Registrar LOCK.
3. Pursuant to Resolution Rule 4.4, CIIDRC notified the Registrant of this administrative proceeding and forwarded the Complaint to the Registrant on March 2, 2023, which was also the day of commencement. As

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the Complaint with the attachments was filed via email, CIIDRC delivered the Complaint to the Registrant by email and by express post. Tracking of the package shows that it was delivered on March 6, 2023 to the address provided by CIRA.

4. On March 21, 2023, the Complainant's counsel submitted an amended complaint correcting a typographical error as to the trademark and trademark number. The corrected complaint was provided via email to the Registrant. CIIDRC received no response from the Registrant to this correspondence.

5. The deadline for the Registrant's response was set as March 22, 2023. The Registrant did not file a Response, nor has CIIDRC had any communication from the Registrant.

6. The Complaint was filed in English, which shall be the language of the proceeding.

7. The Complainant in this administrative proceeding has elected for a Panel consisting of a single member.

8. CIIDRC appointed Alan L. Limbury as a single-member Panel in this matter on March 28, 2023. The Panel accepted the appointment and completed a statement of impartiality and independence as required under Paragraph 7 of the Rules.

This matter is conducted pursuant to the Canadian Dispute Resolution Policy (the CDRP) and the Canadian Dispute Resolution Rules (the Resolution Rules) of the Canadian Internet Registry Authority.

## **2. FACTS ALLEGED BY THE PARTIES**

The Complainant, Royal Lactalis Leerdammer, is the producer of Leerdammer, a very well-known cheese from the Netherlands, named after Leerdam, a city and former municipality in the province of Utrecht. The Complainant operates a website at <leerdammer.com>, registered on April 24, 1996.

The <leerdammer.ca> Domain Name was registered on March 21st, 2021. It resolves to a website displaying pay-per-click links including "Fromagerie" and "Fromage en Ligne".

## **3. CONTENTIONS OF THE PARTIES**

- **Complainant**

The Complainant submits that the <leerdammer.ca> Domain Name is confusingly similar to its LEERDAMMER trademark; the Registrant has no legitimate interests in the Domain Name; and the Domain Name has been registered in bad faith.

As to legitimacy, the Registrant is not identified in the WHOIS database as the Domain Name and thus is not known as the Domain Name. The Complainant has granted neither license nor authorization to the Registrant to make any use of the Complainant's LEERDAMMER trademark, nor to apply for registration of the Domain Name. Furthermore, the Domain Name resolves to a parking page with commercial links.

As to bad faith, there is no evidence that the Registrant used the Domain Name and its associated website in good faith. To the contrary, there is evidence that the Registrant used the Domain Name to trade upon the goodwill of the Complainant and its distinctive LEERDAMMER mark in furtherance of commercial gain through a pay-per-click website.

Given the distinctiveness of the Complainant's trademark and reputation, it is inconceivable that the Registrant could have registered the Domain Name without actual knowledge of the Complainant's rights in the trademark.

Finally, the Registrant has engaged in a pattern of such conduct, see *American Express Marketing and Development Corp v. Nameshield Inc. c/o Daniel Mullen*, DCA-00249 (CIRA Feb. 5, 2014); *Optrex Limited v. Nameshield Inc.*, DCA-00274 (CIRA Dec. 19, 2014); and *Virox Technologies Inc. v. Nameshield Inc.*, DCA-00344 (CIRA Oct. 6, 2017). Based on this evidence of prior adverse decisions and the fact that the Domain Name prevents the Complainant from reflecting its mark per se in the .ca ccTLD, the Complainant confirms that the Registrant has registered the Domain Name in bad faith.

- **Registrant**

The Registrant failed to file a response to the Complaint.

- **Remedy Sought**

The Complainant requests that the Domain Name be transferred to it.

#### **4. DISCUSSION AND FINDINGS**

##### **4.1 Eligibility**

The Complainant is an eligible complainant under paragraph 1.4 of the CDRP. The Complainant is the owner of Canadian trademark LEERDAMMER n° TMA719585, registered on May 24, 2007.

##### **Requirements**

In accordance with Paragraph 4.1 of the CDRP, the onus is on the Complainant to prove:

- That the Domain Name is Confusingly Similar to a trademark or service mark in which the Complainant has rights:
- That the Domain Name has been registered in bad faith.

and the Complainant must provide some evidence:

(c) That the Registrant has no legitimate interests in the Domain Name.

The Panel will consider each of these requirements in turn.

## **4.2 Analysis**

### **4.3.1 That the Domain Name is Confusingly Similar to a Mark in which the Complainant has Rights**

The Complainant has shown that it has rights in Canadian registered trademark LEERDAMMER, n° TMA719585, registered on May 24, 2007. The Panel finds the Registrant's <leerdammer.ca> Domain Name to be confusingly similar to the Complainant's mark because it comprises the mark in its entirety. Pursuant to CDRP para. 1.2, the term "domain name" means the domain name excluding the "dot-ca" suffix.

The Complainant has established this element.

### **4.3.2 That the Registrant has No Legitimate Interest in the Domain Name**

The Complainant needs only to raise a reasonable challenge to the legitimacy of the Domain Name registration to establish its case, in the absence of any showing of legitimacy by the Registrant. Such reasonable challenge is achieved by the Complainant's ownership of its registered Canadian mark, given that the registration of the Domain Name does not appear to fit within any of the circumstances set out in paragraph 3.4 of the CDRP. See CIIDRC Decision 15909-CDRP, *loxone.ca*, at p 7.

Further, the Domain Name was registered many years after the Complainant registered its LEERDAMMER mark. The Panel finds that the Registrant has never been licensed or authorized to use the Complainant's mark. Although the Domain Name is registered in the name Nameshield Inc., there is no evidence that the Registrant is commonly known or identified by that name, nor is Nameshield a geographical name.

Moreover, there is no evidence that the Registrant has used, is using, or is preparing to use, the Domain Name in good faith in connection with any bona fide goods or services, or for a legitimate non-commercial use.

Rather, the Domain Name resolves to a website with pay-per-click links relating to cheese, being goods of the kind provided by the Complainant, despite the Registrant having no permission from the Complainant to do so.

As a result, the Complainant has established that the Registrant lacks any legitimate interest in the Domain Name.

### **4.3.3 That the Registrant has Registered the Domain Name in Bad Faith**

The Panel finds that the Domain Name was registered and has been used to mislead Internet users into the false belief that the website to which the Domain Name resolves was that of the Complainant or was endorsed, sponsored or approved by the Complainant. This demonstrates that the Registrant was fully aware of the

Complainant's mark at the time the Registrant registered the Domain Name and did so in the circumstances set out in the Policy, paragraphs 3.5 (d).

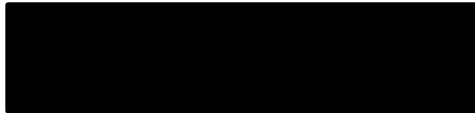
As to whether the Registrant has engaged in a pattern of such conduct, the Panel notes that the name in which the Domain Name was registered is Nameshield Inc., the name of a certified domain name Registrar, and that the Complainant is represented by Laurent Becker of Nameshield, who is no doubt in a position to make this assertion. However, the Panel does not need to address this issue, having regard to the findings set out above.

**5 DECISION and ORDER**

For the above reasons, in accordance with Paragraph 4 of the CDRP, Paragraph 12 of the Resolution Rules, the Panel orders that the <leerdammer.ca> Domain Name be transferred to the Complainant.

Made as of March 29, 2023.

SIGNATURE OF PANEL



Alan L. Limbury

