

ADMINISTRATIVE PANEL DECISION

Groupe Rousselet v. Maria da calva
Case No. D2023-0067

1. The Parties

The Complainant is Groupe Rousselet, France, represented by Nameshield, France.

The Respondent is Maria da calva, France.

2. The Domain Name and Registrar

The disputed domain name <foncieresevenity.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 6, 2023. On January 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 9, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (On behalf of foncieresevenity.com OWNER, c/o whoisproxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 9, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on January 10, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2023. The Respondent sent an informal communication to the Center on January 11, 2023. The Respondent did not submit any formal response. Accordingly, the Center notified the Parties that it would proceed to panel appointment on February 14, 2023.

The Center appointed Elise Dufour as the sole panelist in this matter on February 28, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is Groupe Rousselet, a French transportation and mobility company founded in 1905. The company operates in a variety of sectors, including taxi services, luxury transportation, and ride-sharing services. The company's operations include G7, a popular taxi service in Paris, as well as subsidiary companies such as Taxis Bleus, and Les Petits Rois.

Foncière Seventy is a subsidiary of Groupe Rousselet that operates in the real estate sector. The company specializes in the acquisition, management, and development of commercial real estate properties in France.

The Complainant owns numerous trademarks for FONCIERE SEVENTY and for SEVENTY, including the following ones:

- French trademark FONCIERE SEVENTY n° 4281945 registered on June 22, 2016;
- French trademark SEVENTY n° 4248576 registered on February 11, 2016;
- French trademark SEVENTY n° 4281713 registered on June 21, 2016;
- European Union trademark SEVENTY n° 016193451 registered on May 19, 2017.

In addition, the Complainant owns various domain names that contain the trademark SEVENTY and notably the domain name <seventy.fr> registered on February 3, 2016.

The disputed domain name was registered on November 29, 2022, and leads to a parking page of the hosting provider, and has been used for a phishing scheme.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is (i) identical to its earlier trademark FONCIERE SEVENTY, (ii) that the Respondent has no rights or legitimate interests in the disputed domain name, and (iii) that the disputed domain name has been registered and is being used in bad faith.

(i) The Complainant claims that the disputed domain name is identical to its earlier trademark FONCIERE SEVENTY and that the addition of the generic Top-Level Domain ("gTLD") ".com" does not change the overall impression of the designation as being connected to the Complainant's trademark.

(ii) The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name and the Complainant has not licensed or otherwise permitted the Respondent to use its trademark FONCIERE SEVENTY. Furthermore, the Complainant contends that the disputed domain name is not used in connection with a *bona fide* offering of goods or services, as the disputed domain name has been registered for a phishing scheme.

(iii) the Complainant considers that the Respondent must have had the FONCIERE SEVENTY trademarks in mind when registering the disputed domain name as the disputed domain name is identical to its previous trademark. The Complainant also claims that the Respondent's use of the disputed domain name is made in bad faith, as it has been registered for a phishing scheme, using a domain name incorporating the mark of another to attract and confuse users for financial gain via fraudulent emails, passing off as the Complainant.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

Apart from sending an email in French on January 11, 2023 expressing that she did not understand the Center's email, the Respondent did not formally reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The disputed domain name wholly incorporates the Complainant's trademark FONCIERE SEVENTY, which, as it has been long established by previous UDRP panels, may be sufficient to determine that a disputed domain name is identical or confusingly similar to the Complainant's trademarks.

In addition, it is well established that the addition of the gTLD ".com" may be disregarded when assessing similarity as it is a standard registration requirement (see section 1.11, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), and *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#)).

Thus, the Panel finds that the disputed domain name is identical to the Complainant's trademark.

The Panel finds that the requirement of paragraph 4(a)(i) of the Policy is met.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel considers that the Complainant has successfully established the Respondent is not commonly known under the disputed domain name, nor does the Respondent own registered trademark rights in the disputed domain name or has been authorized by the Complainant to use its prior trademarks in any way.

In addition, the Complainant contends and has provided evidence showing that the disputed domain name has been used for a phishing scheme. UDRP panels have categorically held that the use of a domain name for illegal activity (e.g., phishing) can never confer rights or legitimate interests on a respondent (see section 2.13, [WIPO Overview 3.0](#)).

In addition, the disputed domain name is identical to the Complainant's previous trademark, which carries a high risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (see section 2.5.1, [WIPO Overview 3.0](#)).

The Panel hence finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

It is well established that once a complainant makes out a *prima facie* case that a respondent has no rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to prove its rights or legitimate interests.

However, the Respondent did not formally provide a response or any evidence in this administrative proceeding, but merely sent an informal communication to the Center indicating that the content of the email sent by the Center was unclear.

On the basis of the foregoing, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

With regards to the registration of the disputed domain name, the Panel finds that at the time of the registration of the disputed domain name, the Respondent must have been aware of the existence of the Complainant's trademark and activities. Indeed, given the fact that the disputed domain name is identical to the Complainant's previous trademark, and the Respondent attempted to impersonate the Complainant through sending fraudulent emails associated with the disputed domain name, the Respondent cannot credibly claim to have been unaware of the existence of the previous trademark of the Complainant.

As to use of the disputed domain name in bad faith, the evidence shows that the disputed domain name has been used for a phishing scheme. Such use of the disputed domain name for the purposes of phishing constitutes use in bad faith for the purposes of the Policy (see section 3.4, [WIPO Overview 3.0](#)).

The Panel considers finally that it is not possible to conceive of any plausible contemplated use of the disputed domain name by the Respondent that would not in all likelihood amount to be bad faith use within the meaning of the Policy because it would involve the intentional deception of Internet user.

Therefore, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy, paragraph 4(a)(iii).

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <foncieresevenity.com>, be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: March 14, 2023