

ADMINISTRATIVE PANEL DECISION

Television Francaise 1 v. Host Master, Transure Enterprise Ltd
Case No. D2022-1121

1. The Parties

The Complainant is Television Francaise 1, France, represented by AARPI Scan Avocats, France.

The Respondent is Host Master, Transure Enterprise Ltd, United States of America.

2. The Domain Name and Registrar

The disputed domain name <mailtf1.com> is registered with Above.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 31, 2022. On April 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 7, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on April 7, 2022, 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 April 11, 2022.

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 April 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2022.

The Center appointed Adam Taylor as the sole panelist in this matter on May 9, 2022. 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 has operated a French television channel, known as “TF1”, since 1974.

The Complainant owns figurative International Trade Mark No. 556537 for TFI, registered on July 30, 1990, in classes 9, 16, 25, 28, 35, 38 and 41.

The Complainant operates a website at “www.tf1.com”.

The disputed domain name was registered on February 4, 2022.

On or around February 16, 2022, the disputed domain name resolved to a web page with what the Complainant describes as a “malicious page containing a fake Windows security warning intended to deceive and defraud the user”.

The Respondent did not respond to cease and desist letters sent by the Complainant on February 16 and 22, 2022.

As of March 29, 2022, the disputed domain name resolved to a web page with television-related pay-per-click (“PPC”) links.

The Respondent has been the subject of many previous negative UDRP decisions.

5. Parties’ Contentions

A. Complainant

The following is a summary of the Complainant’s contentions.

The Complainant’s trade mark is well known.

The disputed domain name is confusingly similar to the Complainant’s trade mark as it consists of that trade mark in its entirety, plus the term “mail”, which is not sufficient to avoid confusion.

The Respondent lacks rights or legitimate interests in respect of the disputed domain name.

The Complainant has never authorised the Respondent to use its trade mark.

The Respondent is not related to the Complainant’s business and does not own any relevant trade marks.

The Respondent did not reply to the Complainant’s cease and desist letters.

The use of the disputed domain name in connection with illegal activity or for a parking page cannot confer rights or legitimate interests on the Respondent.

The Respondent has registered and is using the disputed domain name in bad faith.

The Complainant’s trade marks were registered, and used in France and elsewhere, for many years before the disputed domain name was registered.

The addition of the term “mail” to the Complainant’s trade mark suggests that the disputed domain name has been used for a phishing attack, which is confirmed by fact that the Respondent has set up MX servers on the disputed domain name.

The Respondent could not have been unaware of the Complainant's prior rights in view of the extent of the Complainant's reputation and the distinctive character of its trade mark.

Given the fame of the Complainant's mark, the mere absence of any rights or legitimate interests of the Respondent in the disputed domain name of itself demonstrates opportunistic bad faith.

The use of the disputed domain to redirect to a parking page containing sponsored links relating to the Complainant's activity confirms the Respondent's bad faith.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established registered rights in the mark TF1, as well as unregistered trade mark rights deriving from the Complainant's extensive and longstanding use of that mark.

Section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") makes clear that, where the relevant trade mark is recognisable within the disputed domain name, the addition of other terms, whether descriptive or otherwise, would not prevent a finding of confusing similarity under the first element.

Here, the disputed domain name consists of the Complainant's distinctive trade mark, which remains readily recognisable within the disputed domain name, plus the additional term "mail", which does not prevent a finding of confusing similarity for reasons explained above.

Accordingly, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trade mark and that the Complainant has therefore established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

As explained in section 2.1 of [WIPO Overview 3.0](#), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, the Respondent has used the disputed domain name to generate what is likely to be a fake warning notice designed to deceive and defraud Internet users, as asserted by the

Complainant. Such use of the disputed domain name, which the Respondent has not appeared in this proceeding to justify, is plainly not *bona fide*.

The disputed domain name has also been used for a parking page with PPC links to services competing with those supplied by the Complainant. Such use of the disputed domain name could not of itself confer rights or legitimate interests either. See section 2.9 of [WIPO Overview 3.0](#), which states that use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalise on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy apply in the circumstances of this case.

The Panel finds that the Complainant has established a *prima facie* case of lack of rights or legitimate interests and there is no rebuttal by the Respondent.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

By using the disputed domain name, including the Complainant's distinctive trade mark for a likely fraudulent purpose, as well as for a parking page with PPC links to products relating to the Complainant's industry, the Panel has little difficulty in concluding that it was registered and is being used in bad faith by the Respondent.

Indeed, it is difficult to conceive of any legitimate reason why the Respondent would wish to register the disputed domain name and the Respondent has not appeared in this proceeding to offer an explanation.

The Panel also notes that the Respondent has been found to have registered and used domain names in bad faith in many other cases under the Policy.

For the above reasons, the Panel considers that the Complainant has established the third element of paragraph 4(a) of the Policy.

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 <mailtf1.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: May 23, 2022