

ADMINISTRATIVE PANEL DECISION

Fondation du Patrimoine v. Privacy Service Provided by Withheld for Privacy ehf / Shawn Kim
Case No. D2022-1713

1. The Parties

The Complainant is Fondation du Patrimoine, France, represented by AARPI Scan Avocats, France.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Shawn Kim, Italy.

2. The Domain Name and Registrar

The disputed domain name <fondationpatrimoine.org> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 11, 2022. On May 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 May 26, 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 May 31, 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 June 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 26, 2022.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on July 4, 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 is a French foundation established in 1996 to raise funds from sponsors and public partners in order to support the restoration of French heritage.

The Complainant owns trademark registrations in several jurisdictions, including the French trademark FONDATION DU PATRIMOINE (Reg. No. 3398599, registered on December 8, 2005), the French trademark FONDATION DU PATRIMOINE (Reg. No. 4249712, registered on February 16, 2016) and the International trademark FONDATION DU PATRIMOINE (Reg. No. 1504118, registered on June 28, 2019).

The Complainant further holds the domain name <fondation-patrimoine.org> under which the official website of the Complainant is available. The Complainant holds several other domain names incorporating the FONDATION DU PATRIMOINE trademark.

The disputed domain name was registered on September 13, 2021, and resolves to a website reproducing the Complainant's trademark and on which donations for the restoration of churches in Paris can allegedly be made.

5. Parties' Contentions

A. Complainant

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4.

B. Respondent

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

6. Discussion and Findings

Based on the facts and evidence introduced by the Complainant, and with regard to paragraphs 4(a), (b) and (c) of the Policy, the Panel concludes as follows:

A. Identical or Confusingly Similar

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the FONDATION DU PATRIMOINE trademark.

The FONDATION DU PATRIMOINE trademark is almost entirely reproduced in the disputed domain name.

UDRP Panels have found that omitting letters of a registered trademark incorporated into a domain name may constitute confusing similarity under the specific facts of the case if the term of the disputed domain name is very similar to the trademark in its overall impression, for example because of its visual impression or pronunciation (*Microsoft Corporation v. Microsof.com aka Tarek Ahmed*, WIPO Case No. [D2000-0548](#)). In this case, the Respondent has deleted the French definitive article "du" in between the terms "fondation" and "patrimoine" of the Complainant's FONDATION DU PATRIMOINE trademark. The term "fondationpatrimoine" is very similar to the Complainant's FONDATION DU PATRIMOINE trademark both in visual impression and pronunciation. An Internet user is likely to confuse the term "fondationpatrimoine" with the Complainant's trademark, in particular considering the strong individualization of the trademark. Hence, the Panel holds that the deletion of the term "du" in the Complainant's FONDATION DU PATRIMOINE trademark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark under the specific circumstances of this case, particularly noting that the website at the disputed domain name confirms the confusing similarity. See the WIPO Overview of WIPO Panel Views

on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.15.

The Complainant has thus fulfilled the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain name. The Complainant contends that the Respondent is neither affiliated with the Complainant nor making any *bona fide* use of the disputed domain name. Furthermore, the Respondent has not advanced any legitimate use pertaining to the term "fondationpatrimoine" or the disputed domain name.

While the terms "fondation" and "patrimoine" are dictionary terms, the disputed domain name is not used in connection with the relied-upon dictionary meaning but rather trades off the Complainant's trademark rights.

The Respondent uses the disputed domain name to purportedly collect donations for similar projects as protected by the Complainant's trademark registrations. The Complainant has credibly alleged that the Respondent uses the disputed domain name to take advantage of the Complainant's trademark notoriety. This cannot be considered as a *bona fide* offering of goods or services or a noncommercial use.

The Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the circumstances of this case, including the composition of the disputed domain name, the content of the website available under the disputed domain name and the reputation of the Complainant's trademark, it can be inferred that the Respondent was aware of the Complainant's trademark when registering the disputed domain name, registering it to take unfair advantage of its similarity with the Complainant's trademark.

The Panel finds that the deletion of the term "du" in the Complainant's trademark is susceptible of misleading Internet users by creating a likelihood of confusion between the Complainant's trademark and the disputed domain name. Such composition of the disputed domain name, corroborated by infringing website content, reflects an intention on the part of the Respondent of taking unfair advantage of the Internet users seeking the Complainant (See [WIPO Overview 3.0](#), section 1.9).

The evidence and allegations submitted by the Complainant support a finding that the Respondent is engaged in an attempt to pass himself off as the Complainant by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of his website for his own commercial benefit. The Respondent therefore uses the disputed domain name in bad faith (see *Claudie Pierlot v. Yinglong Ma*, WIPO Case No. [D2018-2466](#)).

Accordingly, the Complainant has also fulfilled paragraph 4(a)(iii) 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 <fondationpatrimoine.org> be transferred to the Complainant.

/Tobias Zuberbühler/

Tobias Zuberbühler

Sole Panelist

Date: July 18, 2022