

ADMINISTRATIVE PANEL DECISION

Television Francaise 1 v. GREGORY MANNIE

Case No. D2022-2926

1. The Parties

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

The Respondent is GREGORY MANNIE¹, United States of America.

2. The Domain Names and Registrar

The disputed domain names <etf1.biz>, <etf1.co>, <etf1.digital>, <etf1.info> and <etf1.pro> (the “Domain Names”) are all registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 8, 2022. On August 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On August 9, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 10, 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 August 10, 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 August 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 1, 2022.

¹ The original Complaint identified a privacy service as the Respondent. After the Registrar verified the underlying customer data, the Complaint was amended to add the name of the underlying registrant, whom the Panel understands to be the proper Respondent.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on September 5, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, Television Francaise 1, is known as TF1. It was founded in 1974 and operates the oldest television channel in France. TF1 is one of the most watched television channel in Europe. The Complainant has developed digital services on its online platforms, notably "MYTF1", allowing access to replays as well as video-on-demand services.

The Complainant holds many trademarks consisting or including the wording TF1 in France and abroad, for example the International Registration No. 556537, registered on July 30, 1990. The Complainant has used its TF1 trademarks to promote its activities for many years and they have been subject of several articles in the media. The Complainant has received numerous awards. The TF1 trademarks are used on the Complainant's websites. The Complainant also holds several domain names, such a <tf1.com> and <tf1.fr>.

The Domain Names were registered on April 19, 2022. Currently the Domain Names redirect to parking pages containing sponsored links directly related to the Complainant's activity such as "Streaming Television" or "Tv Shopping".

5. Parties' Contentions

A. Complainant

The Complainant argues that its TF1 trademark has a strong reputation and provides evidence of trademark registrations. The Complainant argues that the Domain Names are confusingly similar to the Complainant's trademark, because the Domain Names incorporate the TF1 trademark entirely, with the mere addition of the letter "e". The addition increases the likelihood of confusion.

The Complainant asserts that the Respondent is not authorized to use the Complainant's trademark. The Respondent is not in any way related to the Complainant's business. The use of a domain name in order to support a parking page can never confer rights or legitimate interests on a respondent. The Domain Names have not been used legitimately by the Respondent.

The Complainant argues bad faith registration and use. The Complainant's prior trademarks were registered and used many years before the Domain Names were registered. The Respondent could not ignore the Complainant's prior rights in view of its reputation and the distinctive character of its trademarks. The absence of any right or legitimate interest of the Respondent in the Domain Names demonstrates that the Domain Names have not been registered or used in good faith. The Domain Names have never been used legitimately. The use of the Domain Names to redirect to a parking page containing sponsored links directly related to the Complainant's business confirms that the Respondent is acting in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established that it has rights in the trademark TF1. The test for confusing similarity involves a comparison between the trademark and the Domain Names. The Domain Names incorporate the Complainant's trademark, with the minor addition of "e". The addition does not prevent a finding of confusing similarity between the Domain Names and the trademark. For assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level-Domains ("gTLDs"), see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1.

The Panel finds that the Domain Names are confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

As stated in [WIPO Overview 3.0](#), section 2.1, "while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element".

The Complainant has made unrebutted assertions that it has not granted any authorization to the Respondent to register a domain name containing the Complainant's trademark or otherwise make use of the Complainant's mark. There is no evidence that the Respondent has registered the Domain Names as a trademark or acquired unregistered trademark rights. The Respondent has not made use of, or demonstrable preparations to use, the Domain Names in connection with a *bona fide* offering. The Respondent's use is, as explained below, evidence of bad faith.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Based on the fame of the Complainant's trademark and the Respondent's use of the Domain Names, the Panel finds that the Respondent most likely was aware of the Complainant and its trademark when the Respondent registered the Domain Names.

The Respondent appears to have used the Domain Names to attract for commercial or other gain, users to its website or other online location, by creating a likelihood of confusion with the Complainant's trademark. The Domain Names have been used to redirects to a parking page containing sponsored links in the Complainant's line of business.

For the reasons set out above, the Panel concludes that the Domain Names were registered and are being used in bad faith, within the meaning of 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 Domain Names <etf1.biz>, <etf1.co>, <etf1.digital>, <etf1.info> and <etf1.pro> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: September 19, 2022