

ADMINISTRATIVE PANEL DECISION

Television Française 1 v. LI HE

Case No. D2022-4532

1. The Parties

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

Respondent is LI HE, China.

2. The Domain Name and Registrar

The disputed domain name <verrytf1.xyz> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 28, 2022. On November 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 30, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 Respondent of the Complaint, and the proceedings commenced on December 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 26, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent’s default on December 30, 2022.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on January 9, 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

Complainant is a French television company that operates TV channels under the mark TF1, for which it has also registered numerous trademarks, including the following:

- French Trademark No. 1290436 for TF1 (word mark), registered on November 22, 1984 for goods and services in classes 1-42;
- International Trademark No. 556537 for TF1 (device mark), registered on July 30, 1990 for good and services in classes 9, 16, 25, 28, 35, 38 and 41.

Complainant operates its business websites at the domain names <tf1.com>, <tf1.fr> and <tf1.eu>.

The disputed domain name was registered on September 23, 2022. The record contains evidence that it was initially used for a pornographic website. At the time of this Decision, the disputed domain name did not resolve to an active website.

The record reflects copies of Complainant's cease-and-desist letters to Respondent dated November 3, 2022 and November 10, 2022. The record does not reflect Respondent's reply thereto.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that it was founded in 1974 and operates the first and oldest television channel in France. The TF1 Group was created in 1987 and operates several television channels, as well as production and distribution companies for the film and television industries. TF1 is the most watched television channel in Europe and Complainant operates an online streaming service under that mark. The TF1 mark has been used and promoted by Complainant for many years. The disputed domain name incorporates Complainant's TF1 mark in its entirety. The addition of the superlative term "very" increases the likelihood of confusion among consumers.

Under the second element, Complainant states that, to its knowledge, Respondent is not known by the disputed domain name and owns no rights in the word "TF1". Complainant has never authorized Respondent to register a domain name incorporating its trademarks. Respondent is not in any way related to Complainant's business, and never replied to Complainant's cease and desist letter. The disputed domain name redirected to a pornographic website.

Under the third element, Complainant states that its TF1 mark and domain names were registered many years before the registration of the disputed domain name. The TF1 marks are well-known. The word TF1 is not a common word in any language, but the initials of Complainant. The association of the well-known TF1 mark with the superlative term "very" cannot be accidental, especially given the use of the disputed domain name to redirect to a pornographic website. Respondent ignored Complainant's cease-and-desist letter and concealed its identity when registering the disputed domain name.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A. Identical or Confusingly Similar

Complainant has provided evidence establishing that it has trademark rights in the TF1 mark through registrations in France and internationally. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.1.

In comparing Complainant’s marks with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to this mark, as the TF1 mark is clearly recognizable within the disputed domain name. The disputed domain name additionally contains the word “verry”, which appears to be a misspelling of the word “very”. The Panel finds that this is a dictionary term that does not prevent a finding of confusing similarity. UDRP panels have consistently held that, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

It is the well-established view of UDRP panels that a generic Top-Level Domain such as “.xyz” is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, respondent’s use of, or demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel finds that there is no evidence that Respondent is commonly known by the disputed domain name nor is using the TF1 mark with the permission of Complainant. The nature of the disputed domain name,

which reflects Complainant's mark in its entirety preceded by the word "very", cannot constitute fair use since it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel therefore finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not provided any rebuttal of Complainant's *prima facie* case and has therefore not proved rights or legitimate interests in the disputed domain name. There is no evidence that Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish Respondent's rights or legitimate interests therein. There is no evidence of legitimate non-commercial use or a *bona fide* offering of goods or services. Rather, the disputed domain name, which incorporates Complainant's mark, resolved to a website featuring pornographic content. Such use does not establish rights or legitimate interests in these circumstances.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name.

Complainant's rights in its TF1 mark predate the registration of the disputed domain name by more than 20 years. The disputed domain name reflects Complainant's trademark in its entirety, preceded by a misspelling of the dictionary term "very". Accordingly, it is clear that Respondent had Complainant's mark in mind when registering the disputed domain name. Moreover, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity, as in this case, can by itself create a presumption of bad faith on the part of Respondent. See [WIPO Overview 3.0](#), section 3.1.4.

UDRP panels have consistently held that the use of a disputed domain name to redirect to a pornography website, such as the one used by Respondent, may be evidence of bad faith. This content indicates that Respondent is using the disputed domain name for commercial gain. The Panel finds that Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant's mark. See [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that Complainant has established the third element under 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 <verrytf1.xyz> be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: January 23, 2023