

ADMINISTRATIVE PANEL DECISION

Télévision Française 1 v. Qing Feng Jiang Case No. D2023-0213

1. The Parties

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

The Respondent is Qing Feng Jiang, China.

2. The Domain Name and Registrar

The disputed domain name <tf1you.com> (the “Domain Name”) is registered with Network Solutions, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 13, 2023. On January 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 19, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 20, 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 25, 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 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 17, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on February 23, 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 following facts are undisputed.

The Complainant, founded in 1974, is one of the leading European companies in the field of production and broadcasting TV programs. The company operated the first and oldest television channel in France. In 1987, the Complainant integrated the TF1 Group, which includes several generalist and thematic television channels, including TF1, as well as production and distribution companies for the film and television industries.

The Complainant has expanded in France and internationally by producing and broadcasting original TV programs in the fields of entertainment, current affairs and fiction. In addition, the Complainant has been developing its digital services on its online platforms, notably "MYTF1", allowing access to replays as well as video-on-demand services.

The Complainant owns several trademark registrations worldwide, including but not limited to the French trademark registration for the word mark TF1, with registration number 1290436, registered on November 22, 1984, and the International registration for the combined word/device mark TF1, with registration number 556537, registered on July 30, 1990 designating, *inter alia*, Egypt, Italy and the Russian Federation. These trademarks will hereinafter in singular be referred to as the "Trademark".

The Complainant is the owner of several domain names containing the trademark TF1, including:

- <tf1.com>, registered on April 2, 1998;
- <tf1.fr>, registered on December 3, 1995;
- <tf1.eu>, registered on March 9, 2006.

The Domain Name was registered on November 21, 2017.

The Domain Name was at a time used to redirect Internet users towards a parking page where pay-per-click links were displayed which directly linked to the Complainant's core business (*i.e.*, "Streaming", "France", "Tv Streaming"). At the time of filing of the Complaint and of drafting this decision, the Domain Name is not linked to an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends the following.

The Domain Name is confusingly similar to the Trademark. More specifically, the Domain Name incorporates the Trademark in its entirety. The mere addition of the term "you" will not eliminate the likelihood of confusion in the public mind. The English term "you" is a purely term that can refer, for example, to the relationship established between a company and its customers. Associated with the Complainant's well-known Trademark, it will necessarily be perceived by the public as redirecting to an official website of the Complainant dedicated to its customers. Therefore, the addition of the term "you" in fact increases the likelihood of confusion among consumers. Moreover, the domain suffix ".com" does not prevent a finding of confusing similarity, due to its purely technical function.

The Respondent has no rights or legitimate interests in respect of the Domain Name. To the Complainant's best knowledge, the Respondent has never been known under the Domain Name. Additionally, the

Respondent is not in any way related to the Complainant's business. More specifically, the Respondent is not one of its distributors and does not carry out any activity for or has any business with the Complainant. Moreover, the Complainant has never given any authorization or permission to the Respondent to register or to use its Trademark.

Moreover, the Domain Name was registered and is being used in bad faith. The registration of the Domain Name in bad faith can be found in the following circumstances:

- the Trademark and the Complainant's domain names mentioned under section 4 were registered and used by the Complainant in France and abroad many years before the Domain Name was registered;
- the Respondent could not ignore the Complainant's prior rights in view of its reputation and the distinctive character of its Trademark and should have been aware of the Complainant's activity under the denomination "TF1" when the Respondent registered the Domain Name;
- the mere absence of any right or legitimate interest of the Respondent in the Domain Name demonstrates that the Domain Name was not registered in good faith.

Furthermore, the Domain Name is being used in bad faith. The Domain Name is not currently linked to an active website. However, the passive holding of the Domain Name does not exclude the Respondent's use in bad faith which is fully characterized by the well-known nature of the Trademark. Also the Domain Name previously redirected Internet users toward a parking page containing sponsored links directly linked to the Complainant's core business (*i.e.*, "Streaming", "France", "Tv Streaming"), which is evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Noting the burden of proof on the Complainant, the Respondent's default (*i.e.*, failure to submit a formal response) would not by itself mean that the Complainant is deemed to have prevailed. The Respondent's default is not necessarily an admission that the Complainant's claims are true. See in this regard WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3 "In cases involving wholly unsupported and conclusory allegations advanced by the complainant, or where a good faith defense is apparent (*e.g.*, from the content of the website to which a disputed domain name resolves), panels may find that – despite a respondent's default – a complainant has failed to prove its case. Further to paragraph 14(b) of the UDRP Rules however, panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case *e.g.*, where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent".

A. Identical or Confusingly Similar

The Complainant must demonstrate that it has rights in a trademark and, if so, the Domain Name must be shown to be identical or confusingly similar to such trademark.

The Complainant has shown that it has rights in the Trademark.

As set out in the [WIPO Overview 3.0](#), section 1.7, the first element functions primarily as a standing requirement. The threshold test for confusing similarity between the Domain Name and the Trademark involves a relatively straightforward comparison. The Domain Name is confusingly similar to the Trademark since it merely reproduces (the word element of) the Trademark in its entirety with the addition of the term “you”. The addition of the term “you” does not prevent the Domain Name from being regarded as confusingly similar to the Trademark. As numerous UDRP panels have held, where at least a dominant feature of the relevant trademark is recognizable in a domain name, it is sufficient to establish that such domain name is identical or confusingly similar to that trademark.

Furthermore, as stated in [WIPO Overview 3.0](#), section 1.11.1, the addition of the generic Top-Level Domain (“gTLD”) “.com” “is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”.

In light of the foregoing, the Panel finds that the Domain Name is confusingly similar to the Trademark.

The Panel therefore finds that the first element of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Panel has carefully considered the factual allegations that have been made by the Complainant and have been supported by the submitted evidence.

In particular, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights or legitimate interests in the Domain Name, such as:

- (i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Name (as an individual, business or other organization) even if the Respondent has not acquired any trademark or service mark rights; or
- (iii) making 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.

There is no evidence of the existence of any of those rights or legitimate interests. The Complainant has not authorized, licensed, or permitted the Respondent to register or use the Domain Name or the Trademark. The Complainant has prior rights in the Trademark which precede the Respondent’s registration of the Domain Name. The Respondent has incorporated the Trademark in its entirety in the Domain Name along with the term “you”. As such, the Domain Name carries a risk of implied affiliation with the Complainant, and cannot constitute fair use as it appears to impersonate or suggest sponsorship or endorsement by the Complainant. All the more so, since the Trademark is considered well known.

The Domain Name currently does not resolve to an active website, thus the Respondent is not using the Domain Name in connection with a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use. The previous use of the Domain Name for a pay-per-click website displaying links related to the Complainant’s core business also does not confer any rights or legitimate interests on the Respondent. Further, there is no evidence on record that the Respondent is commonly known by the Domain Name. The

Complainant has therefore established a *prima facie* case that the Respondent has no rights or legitimate interests in the Domain Name and thereby shifted the burden to the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to rebut the Complainant's *prima facie* case.

Therefore, the Panel finds that the Complainant has satisfied the second requirement of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel refers to its considerations under section 6.B.

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of that complainant, for valuable consideration in excess of respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

"TF1" is not a common word in any language, but precisely the initials of the Complainant's name. Certainly lacking a rebuttal by the Respondent, the Panel is satisfied that TF1 is well known in France and many other countries. The Domain Name thus reproduces, without any authorization or approval, the well-known Trademark.

The Trademark was also registered and used by the Complainant, many years before the Domain Name was registered. Given the notoriety of the Trademark, it is highly unlikely that the Respondent was not aware of the existence of the Complainant and its Trademark when registering the Domain Name. Therefore, on balance, it is more likely than not that the Respondent, when registering the Domain Name, had knowledge of the Complainant's earlier rights to the Trademark.

The Domain Name was at a time used to redirect users to a parked page where pay-per-click links related to the Complainant's business were displayed. Therefore, the Panel finds that the Respondent registered the Domain Name to attract Internet users, for commercial gain, to his/her website by creating a likelihood of confusion with the Trademark as to the source, sponsorship, affiliation or endorsement of the webpage to which the Domain Name previously resolved.

The Panel finds that even if the Domain Name does not currently resolve to an active website or other online presence, the Respondent is using it in bad faith considering the circumstances of this case including the well-known nature of the Trademark and lack of a Response from the Respondent. As stated in [WIPO](#)

[Overview 3.0](#), section 3.3 and cases cited therein, “passive holding” of a domain name does not prevent a finding of bad faith.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the Domain Name in bad faith. The Panel is thus satisfied that paragraph 4(a)(iii) of the Policy has been met.

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 Name <tf1you.com> be transferred to the Complainant.

/Willem J.H. Leppink/
Willem J. H. Leppink
Sole Panelist
Date: March 8, 2023