

ADMINISTRATIVE PANEL DECISION

Agence Nationale des Titres Sécurisés v. User-481758 dufour
Case No. D2023-1587

1. The Parties

The Complainant is Agence Nationale des Titres Sécurisés, France, represented by In Concreto, France.

The Respondent is User-481758 dufour, United States of America.

2. The Domain Name and Registrar

The disputed domain name <franceconnect-ants.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 12, 2023. On April 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 13, 2023, 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 14, 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 April 19, 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 April 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 12, 2023.

The Center appointed Alfred Meijboom as the sole panelist in this matter on May 19, 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 Complainant is a French national public entity created in 2007 pursuant to *Décret n° 2007-240 du 22 février 2007 portant création de l'Agence nationale des titres sécurisés*, which uses the official acronym "ANTS". The Complainant is responsible for issuing official documents such as French identity cards, driving licenses and passports. The French government operates a secured service under its registered trademark FRANCECONNECT¹, that allows French citizens to certify their identity through their account on official website, such as the website of the Complainant. The Complainant owns the French national trademark ANTS with registration no. 4610227 for goods and services in classes 9, 35, 38, 39 and 42, which was registered on December 26, 2019 (the "ANTS Trademark").

The disputed domain name was registered on February 17, 2023. The disputed domain name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name incorporates the ANTS Trademark as well as the French state's registered trademark FRANCECONNECT, making the disputed domain name confusingly similar to a trademark in which the Complainant has rights.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name because he has not been commonly known by the disputed domain name. In addition, the Complainant alleges that it has neither authorized the Respondent to use the ANTS Trademark, nor has the Complainant allowed the Respondent to reserve or use a domain name incorporating the ANTS Trademark. The Complainant also alleges that the Respondent is not using the disputed domain name in connection with a good faith offering of goods or services and is therefore not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant alleges that the registration of the disputed domain name which is confusingly similar to a trademark in which the Complainant has rights, without the Respondent having rights or legitimate interests in respect of the disputed domain name, demonstrates in itself that the Respondent's registration of the disputed domain name was made in bad faith. In addition, the Complainant alleges that the Respondent's bad faith can also be presumed insofar as the Complainant's rights relate to a very specific and sensitive purpose since it deals with official documents necessary for any French citizen and therefore personal data, so that it is highly unlikely that the Respondent chose the disputed domain name without knowledge of the Complainant's name, domain name or trademark. The Complainant further alleges that the disputed domain name, even though being inactive, demonstrates that the Respondent is seeking to mislead Internet users by exploiting terms and signs which are protected by public institutions in order to use the disputed domain name for commercial purposes or possibly for fraudulent purposes, resulting in use in bad faith. The Complainant alleges that this bad faith can also be reinforced as the Respondent's details in the Whois register does not permit identification, and he used a nonexistent, false post address.

B. Respondent

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

¹ French national trademark FRANCE CONNECT with registration no. 4118624 for goods and services in classes 9, 16, 38, 41 and 42, which was registered by the French state on September 17, 2014.

6. Discussion and Findings

The Respondent did not file a Response. However, as set out in section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), the consensus view of UDRP panels is that a respondent’s default does not automatically result in a decision in favor of the complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from the Respondent’s default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in this proceeding. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.

The Panel observes that the disputed domain name incorporates the registered trademarks of the Complainant and a third party, being the French state, who is not a party to these domain name proceedings. According to section 1.12 of [WIPO Overview 3.0](#) “[w]here the complainant’s trademark is recognizable within the disputed domain name, the addition of other third-party marks (..), is insufficient in itself to avoid a finding of confusing similarity to the complainant’s mark under the first element”. And according to section 4.13 of [WIPO Overview 3.0](#) “[w]hile the presence of a third party mark in a domain name would not prevent a panel from rendering a decision on the merits, a number of panels have found it appropriate to issue any transfer order without prejudice to the concerned third party’s rights”. In the matter at hand, and for the reasons explained below, the Panel finds it appropriate to order the transfer of the disputed domain name to the Complainant as the Complainant is supervised by the French Ministry of Internal Affairs, and thus associated with the French state, and the use of FRANCECONNECT being a requirement to use of the services of the Complainant under the ANTS Trademark. Consequently, the Panel considers transfer to the Complainant instead of cancellation of the disputed domain name not bearing a risk of abuse.

Under the Policy, the Complainant must prove that:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well established that the Top Level Domain (“TLD”) – in the present case “.com” – maybe disregarded in the assessment under paragraph 4(a)(i) of the Policy (section 1.11. of [WIPO Overview 3.0](#)). The disputed domain name incorporates the ANTS Trademark in its entirety, and the Panel finds that the addition of the trademark FRANCECONNECT (owned by the French State) (franceconnect” to the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s ANTS Trademark.

Consequently, the first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant must make a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent may rebut (e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel takes note of the various allegations of the Complaint and in particular, that no authorization has been given by the Complainant to the Respondent to use the ANTS Trademark or to register the disputed domain name and that the Respondent has not been commonly known by the disputed domain name. These allegations of the Complainant remain unchallenged. There is no evidence before the Panel to show that the Respondent has rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

In the Panel's view, it is obvious that at the time the Respondent registered the disputed domain name he must have had the ANTS Trademark in mind, as the disputed domain name combines the ANTS Trademark with the associated FRANCECONNECT trademark, which in itself shall not be coincidental and demonstrates actual knowledge of French administrative procedures.

The Complainant must also prove that the Respondent has used the disputed domain name in bad faith. Under the circumstances at hand, the Panel finds that the passive holding of the disputed domain name constitutes use in bad faith. In this respect, section 3.3 of [WIPO Overview 3.0](#) states "[f]rom the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

In this case, the Panel concludes that the following cumulative circumstances are indicative of passive holding in bad faith: (i) the Panel's inference from the Complainant's activities that the ANTS Trademark likely enjoys a reputation in France, and that the Respondent is found to have likely had the ANTS Trademark in mind when registering the disputed domain name; (ii) the lack of a response from the Respondent; (iii) the fact that the Respondent has not provided clear identifiable information when registering the disputed domain name, apparently providing a false address; and (iv) the use of a privacy service in an attempt to conceal its identity.

The Panel therefore finds that the Complainant has satisfied the third and final requirement 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 <franceconnect-ants.com> be transferred to the Complainant

/Alfred Meijboom/

Alfred Meijboom

Sole Panelist

Date: June 2, 2023