

## **ADMINISTRATIVE PANEL DECISION**

Television Francaise 1 v. Host Master, Transure Enterprise Ltd  
Case No. D2023-2497

### **1. The Parties**

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

The Respondent is Host Master, Transure Enterprise Ltd, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <eatthistf1.com> is registered with Above.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 8, 2023. On June 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 22, 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 (Above\_Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 23, 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 July 6, 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 July 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 1, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on August 4, 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**

According to information in the Complaint, the Complainant is a European leading company in the field of production and broadcasting TV programs. It was founded in 1974, and operates the first and oldest television channel in France. It is also known as TF1, having integrated in 1987 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 is the registered owner of a number of trademarks consisting or including TF1 in France and abroad, such as the International trademark TF1 registered under No. 556537 on July 30, 1990. The Complainant has registered various domain names consisting of the trademark TF1, such as <tf1.com> registered on April 2, 1998, or <tf1.fr> registered on December 3, 1995, that it uses for its activities.

The disputed domain name was registered on April 27, 2023, and redirects toward a parking page containing sponsored pay-per-click (“PPC”) links. According to evidence from the Complainant, the disputed domain name redirected at some point to a website warning Internet users of a false Windows security alert.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant argues that the disputed domain name incorporates the TF1 trademark in its entirety, with the mere addition of the English dictionary terms “eat” and “this” which will not eliminate the likelihood of confusion in the public mind.

As regards the second element, the Complainant contends that it has never licensed, authorized, or otherwise permitted the Respondent to register a domain name incorporating its trademarks, nor to make any use of the Complainant’s trademarks in order to distinguish its own business. The disputed domain name currently redirects to a website warning Internet users of a false Windows security alert. The disputed domain name initially redirected toward a parking page containing sponsored links related to the Complainant’s main competitor, the French TV group “M6”. According to the Complainant, the use of a domain name in order to support a parking page or an illicit content can never confer rights or legitimate interests on a respondent. In addition, the Respondent never replied to the formal notice sent by the Complainant.

With respect to the third element, the Complainant argues that it has been actively using the TF1 trademarks in France and abroad since the 1980s, many years before the disputed domain name was registered, and has since that date enjoyed a worldwide reputation for its services. The word “TF1” is not a common word in any language and it is highly unlikely, in view of the strong distinctive nature of the TF1 brand that the Respondent’s choice to register a domain name confusingly similar to the Complainant’s trademarks was purely coincidental. As regards the use, the Complainant argues that the disputed domain name currently redirects to a website warning Internet users of a false Windows security alert and that the disputed domain name initially redirected toward a parking page containing sponsored links related to the Complainant’s main competitor, the French TV group “M6”. Such use of a domain name does not constitute good faith use. Indeed, the sole purpose of the current use of the disputed domain name is to take advantage of the Complainant’s reputation to operate a website used for phishing purposes, fraudulently collecting personal data from Internet users.

##### **B. Respondent**

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

## 6. Discussion and Findings

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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.

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

Under paragraph 4(a)(i) of the Policy, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to that trademark. This first element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

The Complainant has provided evidence of its rights in the TF1 trademark by providing evidence of its trademark registrations.

As regards the second limb of the first element, the test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name. It is well established that the generic Top-Level Domain (“gTLD”) may be ignored when assessing the confusing similarity between the disputed domain name and the Complainant’s trademarks as they are viewed as a standard registration requirement. See section 1.11.1 of the [WIPO Overview 3.0](#).

The trademark TF1 is reproduced in its entirety in the disputed domain name. The addition of the words “eat”, and “this” before the TF1 trademark does not prevent a finding of confusing similarity with the Complainant’s trademark, which is recognizable in the disputed domain name. The fact that a domain name wholly incorporates a complainant’s trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other words to such trademarks. The addition of an additional term (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain name is confusingly similar to the Complainant’s trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

### B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent’s rights or legitimate interests in the disputed domain name.

As established by previous UDRP panels, it is sufficient for a complainant to make a *prima facie* case demonstrating that the respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the respondent (see section 2.1 of the [WIPO Overview 3.0](#)). In the

present case, the Complainant has proved it holds rights over the trademark TF1, and claims that the Respondent has no legitimate reason to acquire the disputed domain name.

There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Rather, according to the unrebutted evidence put forward by the Complainant, the disputed domain name is used to host a parked page comprising PPC links to competing services. According to section 2.9 of the [WIPO Overview 3.0](#), “Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users”. In this case, some of the PPC links are related to the Complainant’s trademark TF1 and generate search results with competing services to those offered by the Complainant. The disputed domain name also resolved to a webpage displaying a Windows security alert. In this Panel’s view, neither of the above use confer rights or legitimate interests on the Respondent.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name in the meaning of the second circumstance of paragraph 4(c) of the Policy.

Furthermore, the nature of the disputed domain name carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel considers that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because it did not respond to the Complainant’s contentions.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

### **C. Registered and Used in Bad Faith**

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, “in particular but without limitation”, be evidence of the disputed domain name’s registration and use in bad faith.

The disputed domain name was registered after the Complainant had obtained registration of its TF1 trademark and used it in commerce. The website associated with the disputed domain name contains PPC links also related to the services offered by the Complainant. Under these circumstances, the Panel considers that the Respondent has registered the disputed domain name with knowledge of the Complainant and its trademark and that it targeted that trademark.

As regards the use of the disputed domain name, from the evidence put forward by the Complainant and not rebutted by the Respondent, it results that the disputed domain name redirects Internet traffic to a website displaying PPC advertisements also for the Complainant-related services. Given the confusing similarity between the Complainant’s TF1 trademark and the disputed domain name, and that the PPC links operate for the commercial gain of the Respondent or of the operators of those linked websites, or both, the Panel considers that the disputed domain name is intended to attract Internet users by creating a likelihood of confusion with the Complainant’s TF1 trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s websites or other online location or of a service offered on such other online location within the terms of paragraph 4(b)(iv) of the Policy.

Also, there appears to be a pattern of abusive registrations by the Respondent, as the unrebutted evidence in the case file shows that the Respondent was involved in other UDRP proceedings where similar factual situations caused the concerned UDRP panels to decide in favor of the complainants (see *e.g.*, *EDHEC*

*Business School v. Host Master, Transure Enterprise Ltd*, WIPO Case No. [D2023-1973](#)). This fact also supports a finding grounded on paragraph 4(b)(ii) of the Policy, referring to a respondent registering “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 you have engaged in a pattern of such conduct”.

Moreover, according to the un rebutted evidence submitted by the Complainant, the Respondent’s bad faith registration and use of the disputed domain name can also be inferred from the warnings found at some point on the website at the disputed domain name. Further, the Respondent’s failure to respond to the Complainant’s cease-and-desist letter is additional evidence of bad faith. Finally, the Respondent has not participated in these proceedings and has failed to rebut the Complainant’s contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible.

In the Panel’s view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain name. Consequently, the Panel concludes that the condition of paragraph 4(a)(iii) of the Policy is fulfilled.

## **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 <eatthistf1.com> be transferred to the Complainant.

*/Mihaela Maravela*

**Mihaela Maravela**

Sole Panelist

Date: August 11, 2023