

## ADMINISTRATIVE PANEL DECISION

### Caisse nationale d'allocations familiales v. ALF, Name Redacted Case No. D2024-3730

#### 1. The Parties

The Complainant is Caisse nationale d'allocations familiales, France, represented by Clairmont Novus Avocats, France.

The Respondent is ALF, Name Redacted.<sup>1</sup>

#### 2. The Domain Name and Registrar

The disputed domain name <allocation-familiale.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

#### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 13, 2024. On September 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 16, 2024, 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 (UNKNOWN - redacted for privacy / Whois Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 18, 2024, 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 September 23, 2024.

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").

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<sup>1</sup>The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent's name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST- 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 15, 2024.

The Center appointed Fabrice Bircker as the sole panelist in this matter on October 21, 2024. 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, Caisse nationale d'allocations familiales, is the French public administrative authority in charge with family allowances.

The Complainant, created in 1945, is the family branch part of the French social security system. It is organized through a network of 101 regional offices named "Caisses d'allocations familiales", whose name is often abbreviated by the acronym CAF.

32 million people (i.e., nearly half of the French population) receives benefits from the Complainant or from its affiliates.

The Complainant notably holds the following trademarks:



French trademark registration No. 3220366 filed on April 11, 2003, registered on September 19, 2003, duly renewed since then, and designating services of class 36,

**CAF**, French trademark No. 3687052 filed on October 28, 2009, registered on April 30, 2010, duly renewed since then, and designating services of classes 35, 36, 38, 41 and 45.

The disputed domain name, <allocation-familiale.com>, was registered on October 4, 2023.

It resolves to a website:

- reproducing as favicon the ALLOCATIONS FAMILIALES semi-figurative French trademark No. 3220366,
- notably pretending offering non-reimbursable financial assistance under the name "allocation familiale",
- requesting personal data from the people applying for the purportedly offered financial assistance,
- displaying contents referring to the French social security system, to the Complainant and to its regional network of local offices,
- pretending to be edited by a company i) named CAF, ii) allegedly located at the same address as one of the regional Caisses d'allocations familiales (CAF) of the Complainant, and iii) identified by an incorporation number belonging to a third party.<sup>2</sup>

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<sup>2</sup>It is well established that the general powers of a panel as articulated inter alia in paragraphs 10 and 12 of the Rules include, among others, the possibility to undertake limited factual research into matters of public record if the panel considers such information useful to assessing the case merits and reaching a decision. This limited factual research notably includes visiting the website linked to the

Very little is known about the Respondent, except that, based on the information disclosed by the Registrar, it is apparently located in France.

On December 6, 2023, the Complainant sent, in vain, a cease and desist letter to the Respondent and to the technical intermediaries in charge with the disputed domain name and with the related website.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its ALLOCATIONS FAMILIALES trademark, because the only difference lies in the removal of the plural form and because the generic Top-Level Domain ("gTLD") can be disregarded when comparing the trademark and the disputed domain name.

Besides, the Complainant submits that the Respondent has no rights or legitimate interests in respect with the disputed domain name, in substance because:

- the Complainant has not authorized nor licensed the Respondent to use its trademarks, included in connection with the disputed domain name,
- the Respondent did not respond to the cease and desist letter sent by the Complainant.

Then and in substance, the Complainant contends that the disputed domain name has been registered and is being used in bad faith notably because:

- the Complainant has been founded in 1945,
- the Complainant is a very well-known French public authority,
- the Complainant is the registered owner of trademarks predating the disputed domain name by years,
- the Respondent has never replied to the cease and desist letter sent by the Complainant,
- the disputed domain redirects to a fraudulent website which misleads the public who is likely to attribute said website to the Complainant, resulting in significant business disruption and a high risk of abusive use of the personal data collected through said website,
- there is no reason for the Respondent to use the Complainant's trademarks except to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark and website as to the source, or affiliation of the Respondent's website, what constitutes 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, in order to obtain a transfer of the disputed domain name, the Complainant must establish each of the following three elements:

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disputed domain name in order to obtain more information about the respondent or its use of the domain name, or accessing trademark registration databases (see for instance, [WIPO Overview 3.0](#), section 4.8).

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- 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.

Besides, paragraph 15(a) of the Rules provides that “[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”.

Paragraphs 10(b) and 10(d) of the Rules also provide that “[i]n all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case” and that “[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence”.

Besides, the Respondent’s failure to reply to the Complainant’s contentions does not automatically result in a decision in favor of the Complainant, although the Panel is entitled to draw appropriate inferences therefrom, in accordance with paragraph 14(b) of the Rules (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.3).

Taking the foregoing provisions into consideration the Panel finds as follows.

#### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record (Annex H of the Complaint), the Panel finds that the Complainant has shown rights in respect of a trademark or service mark, namely the ALLOCATIONS FAMILIALES trademark detailed in section 4 above, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the ALLOCATIONS FAMILIALES mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Indeed, the disputed domain name reproduces the verbal element of the Complainant’s trademark and only differs from it by minor misspellings (i.e., the removal of the letters “s” of the plural form) which do not prevent the Complainant’s trademark from remaining clearly recognizable. [WIPO Overview 3.0](#), section 1.9.

Regarding the gTLD “.com” in the disputed domain name, it is well established that gTLD do not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the first element of the Policy has been established.

#### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of

proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Indeed, the Complainant contends that it has not given its consent to the Respondent to use its ALLOCATIONS FAMILIALES trademark in a domain name registration or in any other manner.

Besides, there is nothing in the record of the case likely to indicate that the Respondent may be commonly known by the disputed domain name.

Furthermore, the disputed domain name appears to be used by the Respondent in a context of fraud or at least to misleadingly deceive Internet users. In particular, the disputed domain name resolves to a website:

- inaccurately identifying the company pretending to be its operator (as contended by the Complainant and verified by this Panel in the public information contained in the French Trade and Companies Registry, the incorporation number mentioned in relation with the company named as the operator of the website under the disputed domain name actually belongs to a third-party company),
- trying to pass itself off as related with the Complainant (notably because of i) the reproduction as favicon of one of its trademarks, ii) the identification of its operator through the acronym CAF which constitutes a trademark held by the Complainant and which is used to identify the Complainant's regional offices, iii) references made to the Complainant and to the French social security system, iv) the alleged offering of financial benefits of a comparable nature as those allowed by the Complainant, and v) the use of an address where one of the Complainant's regional offices is located.

Obviously, such use of the disputed domain name does not amount to a legitimate noncommercial or fair use. On the contrary, such use is made with the intent for commercial gain by misleadingly deceiving the Internet users applying for the financial benefits allegedly offered by the Respondent, through the illegitimate collect and use of their personal data (including official identity documents).

In this respect, panels have held that the use of a domain name for illegitimate activity (such as phishing, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel finds that:

- the ALLOCATIONS FAMILIALES trademark predates the registration of the disputed domain name by over 20 years;
- the disputed domain is confusingly similar to the Complainant's ALLOCATIONS FAMILIALES trademark;

- as detailed in sections 4 and 6.B. the disputed domain name resolves to a website purporting to offering financial benefits of a nature comparable to those allowed by the Complainant, and reproducing elements of identification related with the Complainant,
- the website under the disputed domain name displays several forms intended to collect personal data, including sensitive data such as identity cards and income,
- when registering the disputed domain name, the Respondent not only concealed its identity behind a privacy/proxy service, but has also very likely stolen the identity of a third party, as the name of the individual provided in the registration details corresponds to the name of a well-known French high-ranking public official,
- the Respondent has not replied to the cease and desist letter sent by the Complainant prior to the filing of the Complaint, and while invited to defend its case once the procedure commenced, has remained silent.

In these circumstances, the Panel considers that the Respondent cannot have proceeded with the registration of the disputed domain name without being aware of the Complainant's trademark.

Besides, it results from the above-mentioned conditions of use of the disputed domain name that the Respondent is using it to intentionally attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Indeed, the personal data likely illegitimately collected through the website under the disputed domain name have a financial value and can be used to misuse the identity of the individual having communicated them.

Panels have held that the use of a domain name for illegitimate activity, such as phishing, impersonation/passing off, or any other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In sum, this case clearly falls within the scope of paragraph 4(b)(iv) of the Policy.

The Panel finds that the Complainant has established the third element 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 <allocation-familiale.com> be transferred to the Complainant.

*/Fabrice Bircker/*

**Fabrice Bircker**

Sole Panelist

Date: November 4, 2024