

ADMINISTRATIVE PANEL DECISION

Télévision Française 1 v. M K

Case No. D2024-0657

1. The Parties

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

The Respondent is M K, Netherlands (Kingdom of the).

2. The Domain Name and Registrar

The disputed domain name <tf1plus.live> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 13, 2024. On February 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 13, 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 (Privacy Protection) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 15, 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 February 15, 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 8, 2024.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on March 14, 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, also known by the acronym TF1, is active in the field of production and broadcasting of TV programs. It was founded in 1974 and is the first and oldest television channel in France (Annexes D1, D2 and D3). The Complainant owns, amongst other, the following trademarks (Annex F):

French trademark no. 1290436 for TF1 (word), filed and registered on November 22, 1984, for goods and services in Classes 1 to 42;

French trademark no. 4974365 for TF1 PLUS (word), filed and registered on July 3, 2023, for goods and services in Classes 9, 35, 38, 41 and 42;

International Registration ("IR") no. 556537 for TF1 (device), filed and registered on July 30, 1990, for goods and services in Classes 9, 16, 25, 28, 35, 38 and 41, with numerous designations internationally, including the Benelux countries.

The Complainant has registered the domain name <tf1.fr> in 1995, <tf1.com> in 1998, <tf1.eu> in 2006, and <tf1plus.com> in 2021, all of which the Complainant uses in relation to its services. In particular, the domain name <tf1plus.com> refers to a streaming platform launched by the Complainant.

The disputed domain name was registered on December 26, 2023. It does not resolve to any active website and was offered for sale by the Respondent (Annex E).

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 it is the owner of TF1PLUS and TF1 trademarks and domain names which were registered long before the date of registration of the disputed domain name. It claims that the second level domain part of the disputed domain name is identical to the Complainant's TF1PLUS trademark and reproduces identically its TF1 trademark. The generic top-level domain ("gTLD") ".live" can be disregarded due to its purely technical function.

On the lack of rights or legitimate interests on the Respondent's side, the Complainant argues that it has never given authorization or permission to the Respondent to register or use its trademarks. It states that the Respondent itself does not own any trademark rights in the name "TF1", and that the Respondent is not in any way related to the Complainant's business, is not a distributor of the Complainant, nor does the Respondent carry out any activity for the Complainant or has any business with it.

On the registration and use of the disputed domain name in bad faith, the Complainant puts forth that its trademarks have been extensively and successfully used for many decades and are in fact well-known (Annex D). It points to earlier UDRP decision in which the reputation of the Complainant's trademarks have been recognized. Therefore, according to the Complainant, it is unlikely that the Respondent ignored the existence of these trademarks and the domain names of the Complainant reflecting these trademarks when registering the disputed domain name. Even more so, the Respondent must have been clearly aware of these trademarks and has in fact targeted the Complainant, as the Complainant is known by "TF1", which is not a common word in any language. Also, the Respondent has, according to the Complainant, engaged in cybersquatting activities before. Even though the disputed domain name at present does not redirect to any

active website, the passive holding amounts to use in bad faith according to previous UDRP case law as reflected in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 3.3. The Complainant finds that all the relevant elements for such finding are present in this case, as the trademarks of the Complainant are reputed, the Respondent has, upon registration, concealed its true identity, and the disputed domain name was being offered for sale.

B. Respondent

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

6. Discussion and Findings

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.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy, [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's TF1PLUS mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical, and with a view to the Complainant's "TF1" mark it is confusingly similar to the mark for the purposes of the Policy, [WIPO Overview 3.0](#), section 1.7.

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.

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.

In the present case, the Panel notes that the Respondent has registered the disputed domain name long after registration and substantive use of the Complainant's trademarks, and notably after the Complainant has registered its TF1PLUS trademark and domain name <tf1plus.com>, which has been used for a streaming platform. The Respondent offered the disputed domain name for sale, which does not resolve to an active website, and which is identically reflecting the Complainant's trademark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith, [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. In addition, the Respondent seeks to profit of the reputation of the Complainant's trademark by offering the disputed domain name for sale.

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 <tf1plus.live> be transferred to the Complainant.

/Andrea Jaeger-Lenz/

Andrea Jaeger-Lenz

Sole Panelist

Date: March 28, 2024