

## **ADMINISTRATIVE PANEL DECISION**

Agence Nationale des Titres Sécurisés v. Contact Privacy Inc Customer  
0162326938 / Hertz Alexandre  
Case No. D2022-1441

### **1. The Parties**

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

The Respondent is Contact Privacy Inc Customer 0162326938, Canada / Hertz Alexandre, France.

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

The disputed domain name <ants-gouv-verif.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 22, 2022. On April 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 22, 2022, 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 25, 2022 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 26, 2022.

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 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 20, 2022.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on May 25, 2022. 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, Agence Nationale des Titres Sécurisés, is a French public administration placed under the supervision of the Ministry of the Interior. It is responsible in particular for the issuance of sensitive documents such as driving licenses, passports, and identity cards.

It is the owner of the French trade mark ANTS N° 4610227 filed on December 26, 2019 and registered on September 11, 2022.

It also operates online, and for this purpose owns the domain name <ants.gouv.fr>, registered on March 23, 2010.

The disputed domain name <ants-gouv-verif.com> was registered on August 10, 2021, through the services of a privacy shield. The identity of the Respondent, an individual with an address in France, was disclosed by the Registrar in the course of this proceeding.

The disputed domain name was used to host a website mimicking the former website of the Complainant and displaying a false user access.

Under the heading “République française” and “Agence Nationale des Titres Sécurisés”, it offers access to a what appears to be secured space, “Mon Espace”. It also contains a logo of “FranceConnect”, which is a public service which allows citizens to identify themselves online.

#### 5. Parties' Contentions

##### A. Complainant

The arguments put forward by the Complainant can be summarized as follows:

On the first element of the Policy, the Complainant indicates in particular that the disputed domain name is confusingly similar with the trade mark ANTS. Indeed, this sign is fully reproduced, and “the two additional terms GOUV and VERIF are descriptive and have a specific meaning in French language. GOUV is the abbreviation of GOUVERNEMENT in French language (GOVERNMENT in English language); VERIF is the abbreviation of VERIFICATION in French language (same meaning in English language)”.

On the second element of the Policy, the Complainant relies mostly on a similar precedent. Indeed, in a decision involving the domain name <autoentrepreneur-gouv.com> (*Agence Centrale Des Organismes De Sécurité Sociale contre Eric Diener*, WIPO Case No. [D2021-2422](#)), the panelist indicated that « the disputed domain name incorporates the element “-gouv” leads one to believe that it presents an official emanation. Indeed, both parties are established in France and the “-gouv” element is extremely close to the “gouv.fr” extension which is strictly reserved for the French government. Moreover, precisely because of this proximity and the risks that arise from it, in France, the registration of a domain name ending with the element “-gouv.fr” is prohibited. In these circumstances, this Panel considers that there is a very strong, if not irrebuttable, presumption that the Respondent, who does not appear to be linked to an official body of the French State, can in any way hold rights or a legitimate interests in the disputed domain name”.

On the third element of the Policy, the Complainant claims that the very configuration of the disputed domain name, and its subsequent use, were made in full knowledge of the Complainant and its rights, and in bad faith. The Respondent is using the disputed domain name in a manner which looks official, to confuse consumers.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy requires that the Complainant prove all of the following three elements in order to be successful in these proceedings:

(i) the disputed domain name is identical or confusingly similar to a trade mark 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 was registered and is being used in bad faith.

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

The Complainant, under the first requirement of paragraph 4(a) of the Policy, needs to establish that the disputed domain name is identical or confusingly similar to a trade mark or a service mark in which it has rights.

The Complainant has shown that it holds rights over the trade mark ANTS.

The disputed domain name includes the Complainant's trade mark in its entirety, in first position and separated from other elements with the insertion of a hyphen. The addition of the terms "gouv" or "verif" do not prevent the Complainant's trade mark from being recognizable in the disputed domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"): "Where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements."

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trade mark. The first element of the Policy is satisfied.

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

Under the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In this case, the Complainant has argued that the Respondent is not commonly known by the disputed domain name, and has not been authorized by the Complainant to register and use the disputed domain name. What is more, the use of the disputed domain name in connection with a fraudulent phishing scheme does not qualify as fair use: there cannot be a legitimate use where the Respondent impersonates a public body by reproducing the name of the French State, the name of the Complainant, and the French flag in which a "Marianne" is inserted.

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

### C. Registered and Used in Bad Faith

In order to prevail under the third element of paragraph 4(a) of the Policy, the Complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy lists a number of circumstances, which, without limitation, are deemed to be evidence of the registration and use of a domain name in bad faith. These are:

- (i) circumstances indicating that [a respondent has] registered or acquired a disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the complainant or to a competitor of the complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) [the respondent has] registered the disputed domain name in order to prevent the complainant from reflecting the complainant's trade mark or service mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or
- (iii) [the respondent has] registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] 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 [the respondent's] website or location.

In this case bad faith registration and use have been demonstrated.

First, the finding of bad faith registration results from the nature and composition of the disputed domain name. It reproduces entirely the trade mark of the Complainant, together with elements that are directly connected to the Complainant's official activities. In particular, the inclusion of the element "gouv" in the disputed domain name bears a significant impact. Indeed all the domain names linked to the French government and Administration are registered under the extension "gouv.fr". Therefore, for the French public, the inclusion of the radical "gouv" in a domain name indicates without further thinking the existence of an official website of the French government or of a public body. This usurpation is even reinforced here with the addition of the word "verif", which suggests that the identify of the users is to be checked.

Second, the finding of bad faith use results from the hosting of a webpage that has all the features of an official website, in this case operated by the Complainant. The initial confusion is reinforced by the website displayed, with the inclusion of a number of official names and emblems. With this, the Respondent creates a likelihood of confusion in order to operate a fraudulent phishing scheme. Diverting Internet users for fraudulent purposes of this nature amounts to use in bad faith. See [WIPO Overview 3.0](#), section 3.4.

Accordingly, the Panel finds that the third element set out in paragraph 4(a) of the Policy is also satisfied.

### 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 <ants-gouv-verif.com> be transferred to the Complainant.

*/Benjamin Fontaine/*

**Benjamin Fontaine**

Sole Panelist

Date: June 8, 2022