

ADMINISTRATIVE PANEL DECISION

France Télévisions v. Perfect Privacy, LLC / Milen Radumilo
Case No. DTV2022-0004

1. The Parties

The Complainant is France Télévisions, France, represented by Dreyfus & associés, France.

The Respondent is Perfect Privacy, LLC, United States of America / Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <ssfrance.tv> is registered with Name Connection Spot LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 25, 2022. On July 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 2, 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 August 2, 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 August 5, 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 August 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 29, 2022.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on September 1, 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 is France Télévisions, the French public national television broadcaster. It is owned by the French state and operates various subsidiary companies and several television channels for national and international audiences. It is also active in overseas radio and online. Its distribution arm sells 8,000 hours of programs in all genres around the world. Since May 2017, the Complainant has brought together all of its content in a single dedicated online space under the name “France TV”.

The Complainant is the owner of multiple registered trademarks consisting of the mark FRANCE TV including, for example, International Registered Trademark No. 1109946 for the word mark FRANCE TV, registered on November 2, 2011, in Classes 9, 16, 28, 35, 38, 41, and 42, and designated in respect of a variety of jurisdictions, including the European Union, where the Respondent is based. The Complainant also owns multiple domain names incorporating its said mark, including for example, <francetv.fr>, registered on January 18, 1996.

The disputed domain name was registered on March 23, 2022. Little is known regarding the Respondent, which has not participated in the administrative proceeding, other than that it has an address in Bucharest, Romania. The Respondent has been noted in previous cases to be a serial cybersquatter (see, for example, the discussion in *Andros v. Milen Radumilo*, WIPO Case No. [D2022-1209](#)). The Respondent has been named as respondent in over 120 cases under the Policy. An analysis of the most recent 20 of these by the Panel indicates that, among others, the Respondent is in the habit of targeting prominent French businesses by way of its domain name registrations (see for example *Andros v. Milen Radumilo, supra*; *Carrefour SA v. Contact Privacy Inc. Customer 0163853166 / Milen Radumilo*, WIPO Case No. [D2022-1695](#); *Sodexo v. Contact Privacy Inc. Customer 0163851749 / Milen Radumilo*, WIPO Case No. [D2022-1141](#); and *Compagnie Générale des Établissements Michelin v. Perfect Privacy, LLC / Milen Radumilo*, WIPO Case No. [D2022-1105](#)).

The Complainant issued a demand letter to the Respondent via its privacy service provider on April 21, 2022. The Complainant also corresponded with the Registrar of the disputed domain name. The Respondent has not replied to the Complainant in answer to the correspondence with its privacy service provider or the Registrar.

5. Parties' Contentions

A. Complainant

In summary, the Complainant contends as follows:

Identical or confusingly similar

The Complainant and its trademarks enjoy a worldwide reputation and the public has learned to perceive the goods and services offered under this mark as being those of the Complainant. The Complainant owns multiple registered trademarks for FRANCE TV. The disputed domain name substantially reproduces the Complainant's trademark in its entirety and does not associate it with any generic term, differing only by the addition of the double letter “s” at the beginning.

Rights or legitimate interests

The Respondent is not affiliated with the Complainant in any way, nor has been authorized by the Complainant to use and register its marks or to seek registration of any domain name incorporating said marks. The Respondent has no prior rights or legitimate interests in the disputed domain name. The registration of the Complainant's marks preceded the registration of the disputed domain name by years. In the absence of any license or permission from the Complainant to use such a widely-known trademark, no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be claimed. The

Respondent cannot assert a legitimate noncommercial use of the disputed domain name as it resolves to a website displaying commercial links likely to be associated with fraudulent activities and offering the disputed domain name for sale. The Respondent never answered the Complainant's demand letter. The Respondent uses a privacy service to hide its identity and prevent the Complainant from making contact with it. An email server has been configured on the disputed domain name and there may be a risk that the Respondent is engaged in a phishing scheme. The disputed domain name is used for no legitimate business or services.

Registered and used in bad faith

Bad faith may be found where the Respondent knew or should have known of the Complainant's trademark rights but nevertheless registered a domain name in which it had no rights or legitimate interests. The Complainant is one of the main television operators in France and broadcasts in other countries of the world. The composition of the disputed domain name entirely reproduces the Complainant's mark with a double "s" at the beginning, and it cannot be inferred that the Respondent was unaware of the Complainant when it registered the disputed domain name. Said composition is very similar to the Complainant's official domain name <francetv.fr> and differs only by the extension and said double letters. The Complainant's trademark registrations significantly predate the registration date of the disputed domain name, and prior knowledge of these indicates bad faith registration.

The Respondent's deliberate concealment of its identity via a privacy shield may in itself indicate bad faith. It would have been pertinent for the Respondent to provide an explanation of its choice of the disputed domain name, failing which the Panel may draw the conclusion that the disputed domain name was registered in bad faith with intent to create an impression of an association with the Complainant and its products. Bad faith may be found where a domain name is so obviously connected with a well-known trademark, such that its very use by someone with no connection to such mark suggests opportunistic bad faith. A quick trademark search or a simple search by any common search engine for the disputed domain name would demonstrate that the first results all relate to the Complainant's services or news. Given the worldwide reputation of the Complainant and its marks, and the borderless nature of brand reputation in the Internet age, it is improbable that the Respondent was unaware of the Complainant's rights in its trademarks. Such prior knowledge demonstrates bad faith.

The disputed domain name has also been used in bad faith. In the absence of any license or permission from the Complainant to use such a well-known mark, no actual or contemplated *bona fide* or legitimate use of the disputed domain name could reasonably be claimed. Numerous panels have previously considered that the redirection of Internet users to a webpage displaying commercial links likely to be associated with fraudulent activities and offering the disputed domain name are an additional proof of use in bad faith. The clear inference to be drawn from the Respondent's operations is that it seeks to benefit from the fame of the Complainant's marks. The use of an email address with the disputed domain name presents a risk that the Respondent is engaged in a phishing scheme to capture valuable information from the Complainant's customers or employees.

The Respondent is a well-known cybersquatter, and has been the subject of a number of proceedings under the Policy. These support the submission that the disputed domain name is used in bad faith.

B. Respondent

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

6. Discussion and Findings

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.

A. Identical or Confusingly Similar

There are two parts to the first element inquiry under the Policy. The Complainant must demonstrate that it possesses UDRP-relevant rights in a trademark, whether registered or unregistered. If so, a comparison exercise is carried out between the Complainant's trademark and the disputed domain name in order to determine whether the latter is identical or confusingly similar to the former. Such comparison is typically carried out on a straightforward side-by-side basis, the intention of which is to determine whether the mark is recognizable in the disputed domain name. In the event that the disputed domain name is alphanumerically identical to the mark, identity will generally be found. If it is otherwise recognizable, confusing similarity may be found. The Top-Level Domain ("TLD") of the disputed domain name (in this case ".tv") is typically disregarded in the comparison unless, as in this case, the mark "spans the dot" of the disputed domain name (see section 1.11.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

The Panel is satisfied that that the Complainant possesses UDRP-relevant rights in its registered trademark FRANCE TV as outlined in the factual background section above. Comparing this to the disputed domain name, it may be seen that the mark is wholly reproduced therein, inclusive of the TLD, together with a double letter "s" at the beginning. The Panel finds that the presence of the double letter "s" and the fact that the mark spans the dot in the disputed domain name in no way affects its recognizability.

In these circumstances, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark and therefore that the Complainant has carried its burden with regard to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists several ways in which the Respondent may demonstrate rights or legitimate interests in the disputed domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue".

The consensus of previous decisions under the Policy is that a complainant may establish this element by making out a *prima facie* case, not rebutted by a respondent, that such respondent has no rights or legitimate interests in the domain name concerned. In the present case, the Panel finds that the Complainant has made out such a *prima facie* case for the following reasons: The Complainant has submitted that the Respondent is not affiliated with the Complainant or otherwise authorized to register a domain name incorporating its trademark. The Complainant has also asserted and provided supporting

evidence demonstrating that its FRANCE TV trademark is well known nationally and internationally. The Complainant has also contended that there is no evidence of any rights or legitimate interests on the part of the Respondent, and has asserted that the Respondent has not answered the Complainant's cease-and-desist notice. The Complainant has produced evidence demonstrating that the Respondent is a prolific cybersquatter and showing that the Respondent has registered numerous domain names which have targeted third party trademarks, and in which it has been found to have no rights or legitimate interests.

The Complainant having made out a *prima facie* case as outlined above, the burden of production shifts to the Respondent to bring forward submissions and corresponding evidence of any rights and legitimate interests which it might have in the disputed domain name. However, the Respondent has chosen not to engage with the administrative proceeding and has not taken the opportunity to put forward any case in rebuttal. The disputed domain name is being used in connection with pay-per-click advertising and while the advertisements themselves do not appear to relate directly to the Complainant's line of business, based upon the Complainant's screenshot and a visit to the website associated with the disputed domain name by the Panel¹, the Panel considers that the Respondent is using the notoriety of the Complainant's FRANCE TV trademark to generate volumes of Internet traffic to said site for commercial purposes. Such use of the disputed domain name, which exploits the Complainant's trademark, cannot confer rights or legitimate interests upon the Respondent in the view of the Panel.

The Panel has asked itself whether the Respondent might be making a use of the disputed domain name that is unrelated to the Complainant's mark, in other words whether the Respondent might have intended the disputed domain name to refer to television in France in general as opposed to targeting the Complainant and its FRANCE TV mark specifically. The Panel has discounted this possibility. In the first place, the present use of the disputed domain name does not correspond to any such hypothetical descriptive use. Even if it did, the Panel would have to balance that use against the fact that the Complainant's mark is well known that the choice of a corresponding descriptive term by the Respondent might be merely a pretext for cybersquatting. In any event, it would be for the Respondent to prove that it had intended to make such a descriptive use in rebuttal. It has not asserted this, far less provided any supporting evidence, and the Panel finds that such argument has no merit on the basis of the present record.

In all of these circumstances, the Panel finds that the Respondent has failed to rebut the Complainant's *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly the Complainant has carried its burden with regard to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered 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; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet

¹ With regard to the Panel conducting limited factual research into matters of public record, such as consulting relevant publicly available websites, including the website associated with the disputed domain name, see section 4.8 of the [WIPO Overview 3.0](#).

users to your 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 your website or location or of a product or service on your website or location".

In the present case, based on the record before it, the Panel finds on the balance of probabilities that the Respondent registered the disputed domain name with knowledge of the Complainant's FRANCE TV trademark and with intent to target it. The Complainant's evidence supports the notion that its mark is well known internationally and that its registration precedes the Respondent's registration of the disputed domain name by many years. Furthermore, the disputed domain name matches the Complainant's mark exactly, merely adding the double letter "s" in front, and the Panel considers that this is unlikely to be a coincidence. The Panel's review of recent cases under the Policy involving the Respondent indicates that the Respondent has engaged in the targeting of other prominent French trademarks in the past, also suggesting that it is particularly likely to have been aware of a well-known French mark such as the Complainant's FRANCE TV mark.

Regarding the use of the disputed domain name, the Panel notes that the Respondent's website features pay-per-click advertising and also offers the disputed domain name for sale. The disputed domain name is confusingly similar to the Complainant's mark and it seems most likely to the Panel that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement of a product or service on its website in terms of paragraph 4(b)(iv) of the Policy. As the disputed domain name is also being offered for sale, it is also reasonable to infer that the Respondent may have acquired it primarily for the purpose of selling it to the Complainant, or to a competitor of the Complainant, in terms of paragraph 4(b)(i) of the Policy, and has configured the disputed domain name to produce pay-per-click revenue pending any such sale. Finally, the evidence shows that the Respondent is a prolific cybersquatter and, while every case must be taken on its merits, the volume of findings of bad faith registration and use against the Respondent under the Policy cannot be overlooked by the Panel, as this suggests that the Respondent is engaging in a pattern of bad faith conduct.

The Respondent has not responded to the Complaint despite having been notified of it. Likewise, the Respondent failed to reply to the Complainant's correspondence at an earlier stage. The Respondent has made no attempt to refute the Complainant's submissions regarding the registration and use of the disputed domain name or to challenge the evidence which the Complainant has put forward.

In all of the above circumstances, the Panel finds that the disputed domain name was registered and is being used in bad faith, and accordingly that the Complainant has carried its burden in terms of paragraph 4(a)(iii) 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 <ssfrance.tv> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: September 15, 2022