

## ADMINISTRATIVE PANEL DECISION

ONCOPACA-CORSE v. Host Master, Njalla Okta LLC

Case No. D2024-5152

### 1. The Parties

The Complainant is ONCOPACA-CORSE, France, represented by H2O Avocats, France.

The Respondent is Host Master, Njalla Okta LLC, Saint Kitts and Nevis.

### 2. The Domain Name and Registrar

The disputed domain name <oncopaca.org> is registered with Tucows Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 13, 2024. On December 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 16, 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 December 20, 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 December 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 12, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 13, 2025.

The Center appointed Adam Taylor as the sole panelist in this matter on January 17, 2025. 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, a health organisation that focuses on promoting and improving cancer treatment in France, has supplied services under the marks ONCOPACA and ONCOPACA CORSE since 2006 and 2009, respectively.

The Complainant owns French trade mark No. 4974874 for ONCOPACA, registered on October 27, 2023, in classes 41 and 44.

The Complainant currently operates websites at “[www.oncopocacorse.com](http://www.oncopocacorse.com)” and “[www.oncopocacorse.fr](http://www.oncopocacorse.fr).”

The Complainant owned the disputed domain name, and used it for a website, from 2007 until around 2022, when the disputed domain name expired in circumstances that have not been explained.

The Respondent registered the disputed domain name on September 14, 2022.

As of July 7, 2023, the disputed domain name resolved to a website headed “BLOG ONCOPACA”, followed by “ONCOPACA: a project to better treat cancers” (translation). The site included articles relating to cancer, as well as advertising.

On November 23, 2024, an Internet user contacted the Complainant asking for information about an article on the website at the disputed domain name, thinking that it was the official website of the Complainant.

When reviewed by the Panel on January 30, 2025, the disputed domain name resolved to website that was headed “Welcome to Hanover” and described itself as a wellness blog.

The Complainant sent legal letters to the Respondent on various dates including on March 1, 2024. The Respondent did not respond.

The Respondent has been found to have registered and used domain names in bad faith in at least 14 decisions under the Policy, e.g., *Philip Morris Products S.A. v. Host Master, Njalla Okta LLC*, WIPO Case No. [D2024-3452](#).

#### **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.

##### **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 trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical 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 recognised 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.

As to paragraph 4(c)(i) of the Policy, and as further discussed in section 6C below, the Panel considers that the Respondent has used the disputed domain name to intentionally attempt to attract, confuse and profit from Internet users seeking the Complainant's goods and/or services. Such use of the disputed domain name could not be said to be *bona fide*.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

In addition, the Panel considers that the composition of the disputed domain name carries a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel considers that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trade mark in accordance with paragraph 4(b)(iv) of the Policy.

In particular:

1. the disputed domain name comprises the Complainant's highly distinctive mark;
2. the Complainant previously used the disputed domain name for a website for some 15 years;
3. the headings on the Respondent's website at the disputed domain name gave the impression that it was an official blog site of the Complainant;
4. the site included articles relevant to the Complainant's services, as well as advertising;
5. there is evidence of actual confusion on the part of Internet users;
6. the Respondent later changed the name of the blog, likely as a defensive move in response to the Complainant's communications;
7. the Respondent did not respond to the Complainant's legal letters and has not appeared in this proceeding to contest the Complainant's assertions; and
8. the Respondent is a serial cybersquatter, having been found to have registered and used many other domain names in bad faith.

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 <oncopaca.org> be transferred to the Complainant.

*/Adam Taylor/*

**Adam Taylor**

Sole Panelist

Date: January 31, 2025