

ADMINISTRATIVE PANEL DECISION

Société par Actions Simplifiée Etablissements Horticoles Georges

Truffaut v. qw

Case No. D2025-0262

1. The Parties

The Complainant is Société par Actions Simplifiée Etablissements Horticoles Georges Truffaut, France, represented by MIIP MADE IN IP, France.

The Respondent is qw, United States of America.

2. The Domain Name and Registrar

The disputed domain name <truffaut-fr.com> 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 January 23, 2025. On January 23, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 23, 2025, 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 January 24, 2025, 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 January 24, 2025.

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 January 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 17, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 19, 2025.

The Center appointed Alistair Payne as the sole panelist in this matter on February 28, 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 operates a national garden center business in France which was founded more than 200 years ago by Mr Georges Truffaut. The business has more than 65 stores throughout the country. The Complainant owns various trade mark registrations for or incorporating its TRUFFAUT trade mark. These include French word mark registration number 3808138 which was registered on February 21, 2011, and French combined word and logo mark registration number 4637036 which was registered on April 6, 2020. Since 1999, the Complainant has owned the domain names <truffaut.com> and <truffaut.fr> from which it operates its main website.

The disputed domain name was registered on December 19, 2024 and initially resolved to a website which appears to be a copy of the Complainant's website, including reproduction of the registered TRUFFAUT word and combined word and logo marks, offering similar or identical products to those offered by the Complainant and reproducing the Complainant's corporate address and contact details as well as its legal and general terms and conditions. By January 9, 2025, the disputed domain name no longer resolved to this website but rather resolved to an "error" page.

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.

The Complainant contends that it owns registered trade mark rights for its distinctive TRUFFAUT mark as noted above and that the disputed domain name wholly incorporates its mark and is therefore confusingly similar to the Complainant's trade marks. Although the disputed domain name also includes a hyphen and the letters "fr", the Complainant says that this does not prevent a finding of confusing similarity as the term "-fr" refers to the location of the stores as a geographical reference to France and could be perceived by consumers as the French national extension ".fr". Consequently, says the Complainant, this addition only increases the likelihood of confusion with the Complainant's trademarks and domain names.

The Complainant submits that there is no evidence that the Respondent is known by or operates a business under the TRUFFAUT name or mark and that it has not authorised, licensed, or permitted the Respondent to use any of its trade marks, or to apply for, or use any domain name incorporating the TRUFFAUT trade marks. Further, it notes that there is no business relationship existing between the Complainant and the Respondent.

The Complainant asserts that the disputed domain name was not and is not being used in connection with a bona-fide offering of goods or services and that its past or present use does not constitute legitimate non-commercial or fair use. The Complainant says that the initial use of the disputed domain name was to resolve to a website which identically reproduced without authority the Complainant's website, including products, trade marks, the Complainant's corporate name and address details and the Complainant's general and legal terms and conditions. This, says the Complainant, amounted to there being a fake website at the disputed domain name, the purpose of which was possibly to collect personal and banking details from Internet users who sought to buy products from the website at the disputed domain name. Further, says the Complainant, the Respondent's use of a privacy service to mask its identity is inconsistent with legitimate or bona fide use of the disputed domain name.

The Complainant submits that the TRUFFAUT name and mark enjoys a very considerable reputation, such that it is well known in France, in connection with the Complainant's garden center business which has existed for 200 years. It notes that in 2021, the Complainant's business was recognized by the French Points de Vente magazine as the number one gardening chain for customer satisfaction and for the fifteenth year running, was named "Best Chain Store of the Year" at the French Graines d'Or 2023 awards for garden center and pet store chains. As a consequence, says the Complainant, the name or mark TRUFFAUT is immediately associated, at least in the mind of French consumers, with the Complainant's business. According to the Complainant, it therefore seems unlikely and implausible that the Respondent was unaware of the activities of the Complainant and of the existence of the TRUFFAUT trade marks at the date of registration of the disputed domain name.

The Complainant submits that the Respondent's registration of the disputed domain name including the distinctive TRUFFAUT mark which relates to the founder of the Complainant's business and has no other meaning in the French language, together with the abbreviation "FR" for France where the Complainant operates, cannot have been a coincidence and demonstrates that the Respondent was perfectly aware of the Complainant's trade marks and business when it registered the disputed domain name.

Considering the strong degree of renown attaching to the Complainant's trade marks in France, the Complainant says that the use of the disputed domain name to resolve to the fake website to which it initially resolved would inevitably have led Internet users to be confused as to the ownership, source, sponsorship, affiliation, or endorsement of that website such that they would have incorrectly assumed that it was owned by, controlled by, established by or in some way associated with the Complainant.

The Complainant also submits that the disputed domain name disrupts the Complainant's business and causes harm to the Complainant's brand image. It says that because the disputed domain name incorporates the Complainant's trade marks, that Internet users and especially the Complainant's customers may wrongly believe that the website to which the disputed domain name resolves is owned by the Complainant or that its website is not correctly functioning or has been hacked.

Finally, the Complainant notes that MX servers are activated in relation to the disputed domain name and that the existence of these MX servers leads the Complainant to believe that the Respondent could use the MX servers for phishing purposes. It also notes that the Respondent's use of a privacy service in all of these circumstances is inconsistent with bona fide use 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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms may bear upon assessment of the second and third elements, the Panel finds the addition of a hyphen and the letters “fr” being the geographical abbreviation for France does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 Complainant has submitted that there is no evidence that the Respondent is known by or operates a business under the TRUFFAUT name or mark and that it has not authorised, licensed, or permitted the Respondent to use any of its trade marks, or to apply for, or use any domain name incorporating the TRUFFAUT trade marks. Further, it has confirmed that there is no business relationship existing between the Complainant and the Respondent.

The Complainant has also asserted that the disputed domain name was not and is not being used in connection with a bona-fide offering of goods or services and that its past or present use does not constitute legitimate non-commercial or fair use. The Complainant has submitted that the initial use of the disputed domain name was to resolve to a website which identically reproduced without authority the Complainant’s website, including the Complainant’s products, trade marks and corporate name and address details and the Complainant’s general and legal terms and conditions. In other words it appears that the Respondent used the disputed domain name to resolve to a website at which it fraudulently masqueraded as if it was the Complainant. This is inconsistent with the Respondent having any rights or legitimate interests in the disputed domain name and there is no evidence of it using the disputed domain name in connection with a legitimate or fair use, noting that it now resolves to an error page.

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.

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.

In the present case, the Panel notes that the Respondent registered the disputed domain name many years after the registration of the Complainant's long used and well reputed TRUFFAUT trade marks. The fact that the disputed domain name initially resolved to a website which reproduced the Complainant's registered trade marks, as noted above, together with many other elements of the Complainant's website, implies that it is more than likely that the Respondent was well aware of the Complainant's business and trade marks when it registered the disputed domain name.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

While at the date of filing the disputed domain name resolved to an error page, it appears, as described under Part B above that the disputed domain name initially resolved to a website which fraudulently copied or mimicked the Complainant's main website. While the ultimate purpose of doing so is unclear, the Complainant submitted that identical or similar products were promoted for sale by the Respondent on its website at the disputed domain name using the Complainant's trade marks (including its combined logo and word mark) and duplicating its corporate address details and legal and terms and conditions information.

This amounts to use of the disputed domain name to intentionally attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website and it is more likely than not that this was undertaken for the Respondent's ultimate commercial gain which fulfills the requirements of paragraph 4(b)(iv) of the Policy. The Panel notes that even if the Respondent's purpose was ultimately to obtain illegally personal or banking details of the Complainant's Internet based customers then this purpose amounts to an illegal activity which is also evidence of bad faith under this limb of the Policy.

The Panel also notes that the Respondent's name and address details as provided by the Registrar upon verification are neither complete nor appear to be accurate or real and in the Panel's view are most likely false. This fact only reinforces the Panel's view of the Respondent's use of the disputed domain name 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 <truffaut-fr.com> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: March 13, 2025