

ADMINISTRATIVE PANEL DECISION

Usina São Francisco S.A. v. Thomas Paul
Case No. D2025-2692

1. The Parties

The Complainant is Usina São Francisco S.A., Brazil, represented by Zamarion Propriedade Intelectual, Brazil.

The Respondent is Thomas Paul, United States of America ("United States")

2. The Domain Name and Registrar

The disputed domain name <usinasaofrancisco.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 8, 2025. On July 9, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 9, 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 July 11, 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 amendment to the Complaint on July 15, 2025.

The Center verified that the Complaint together with the amendment to the 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 July 18, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 8, 2025.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on August 14, 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 describes itself as one of the leading producers and sellers of organic sugar in Brazil and accounts for 20% of the world's organic sugarcane market. As evidenced by a corporate extract, the Complainant has been incorporated in 1962. According to the Complainant's allegations, which remained uncontested, it also uses the USINA SÃO FRANCISCO trademark since the 1960s.

It results from the Complainant's undisputed and documented submissions that it owns – amongst others – the following trademarks:

- (1) Benelux trademark USINA SÃO FRANCISCO (verbal) no. 1523709, filed on April 23, 2025, and registered on that same day for goods and services in classes 3, 5, 30 and 35;
- (2) Brazilian trademark UFRA (figurative) no. 811460630, filed on October 2, 1984, and registered on July 23, 1985, for goods in class 1.

Furthermore, the Complainant has several pending Brazilian wordmarks for USINA SÃO FRANCISCO all filed on March 18, 2025, for different classes of goods/services but not yet registered.

The Respondent registered the disputed domain name on October 6, 2024. At the time of filing the Complaint, the disputed domain name resolved to an active website (i) which was similar to the Complainant's official website at "www.canaverde.com.br", (ii) related as well to the sugar business, which is the Complainant's core business, and (iii) prominently displayed the Complainant's full company name and trademark UFRA on the landing page. Finally, the Complainant provided undisputed evidence that the disputed domain name is connected to active mail exchange ("MX") servers.

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:

- (1) USINA SAO FRANCISCO has become an identifier of the Complainant and its products in trade since at least 1966. The likelihood of confusion is evident: Internet users will immediately associate the disputed domain name with the Complainant's prior tradename and trademarks, erroneously believing that they relate to the same company, and that the products/services that might be eventually offered by the Respondent under the disputed domain name originate from the same source;
- (2) There is no reason for the Respondent to register the disputed domain name except for a clear attempt to cause confusion with the Complainant's prior trademarks and tradename. The disputed domain name counts with an active website that reproduces the Complainant's official website, in addition to counting with active mail servers associated with it. Therefore, it is very likely that the Respondent registered the disputed domain name with the sole intent to use it to impersonate or conduct fraudulent scams to pass off as the Complainant. Finally, the Respondent has not been authorized by the Complainant to use the

USINA SÃO FRANCISCO trademark and tradename and the Respondent is not known by the disputed domain name;

(3) the disputed domain name consists of a clear reproduction of the Complainant's USINA SÃO FRANCISCO trademark and prior tradename; the Respondent has no rights or legitimate interests in respect of the disputed domain name, and the registration of the disputed domain name has been made by the Respondent in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

- (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.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Panel notes that the Brazilian trademark applications for USINA SÃO FRANCISCO, filed on March 18, 2025, are still pending. It is acknowledged amongst previous UDRP panels that such pending trademark applications do not by themselves establish trademark rights within the meaning of UDRP paragraph 4(a)(i), [WIPO Overview 3.0](#), section 1.1.4.

However, the Complaint is further based on Benelux word mark USINA SÃO FRANCISCO no. 1523709, registered on April 23, 2025. While the UDRP makes no specific reference to the date on which the holder of the trademark or service mark acquired its rights, such rights must be in existence at the time the complaint is filed. The fact that a domain name may have been registered before a complainant has acquired trademark rights does not by itself preclude a complainant's standing to file a UDRP case, nor a panel's finding of identity or confusing similarity under the first element, [WIPO Overview 3.0](#), section 1.1.3. The filing/priority date and date of registration are not considered relevant to the first element test. These factors may however bear on a panel's further substantive determination under the second and third element, [WIPO Overview 3.0](#), section 1.1.2. Therefore, the Panel holds that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy.

The entirety of said mark is reproduced within the disputed domain name, only the tilde on the letter "a" in the "são" element of the Complainant's mark is not reflected therein because under the standard domain name

system such a tilde cannot be reproduced. Accordingly, the disputed domain name 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.

Furthermore, the Panel notes that at the time of filing the Complaint, the disputed domain name resolved to an active website (i) which was similar to the Complainant’s official website, (ii) related as well to the sugar business, which is the Complainant’s core business, (iii) and prominently displayed the Complainant’s full company name and trademark UFRA on the landing page and the Complainant’s logo. In addition, the Complainant provided undisputed evidence that the disputed domain name is connected to active MX servers. In the light of these facts, the Panel finds it most likely that the Respondent selected the disputed domain name with the intention to take advantage of the Complainant’s trademark by registering the disputed domain name which identically contains said trademark. Such use can neither be considered a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers in the sense of paragraph 4(c)(i) and (iii) of the Policy.

In addition, the Respondent did not provide any explanation for the registration or use of the disputed domain name. As outlined above, the Complainant’s uncontested allegations demonstrate that it has not authorized the Respondent’s use of its trademarks for registering the disputed domain name, which is confusingly similar, nor is the Complainant associated with the Respondent in any way.

Finally, the Panel notes that there is no evidence in the record that could lead to the conclusion that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

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. One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

In the Panel's view, this is the case here:

(1) The Panel notes that in the present case, the disputed domain name was registered on October 6, 2024, and consequently before the Complainant acquired its first registered trademark rights for USINA SÃO FRANCISCO on April 23, 2025 (Benelux trademark no. 1523709). Where a respondent registers a domain name before the complainant's trademark rights accrue, panels will not normally find bad faith on the part of the respondent, [WIPO Overview 3.0](#), section 3.8.1.

In certain limited circumstances, however, where the facts of the case establish that the respondent's intent in registering the domain name was to unfairly capitalize on the complainant's nascent (typically as yet unregistered) trademark rights, panels have been prepared to find that the respondent has acted in bad faith, [WIPO Overview 3.0](#), section 3.8.2.

In the Panel's view, this is the case here: according to the Complainant's documented allegations, which remained undisputed, its company has been incorporated under the name of Usina São Francisco S.A. since 1962. It has been and is active in the sugar business, as evidenced by exemplary invoices from 2003, 2020-2025, issued under the Complainant's name and which also contain the Complainant's UFRA trademark and logo, reproduced in the disputed domain name. Furthermore, the Complainant ascertains to use the sign USINA SÃO FRANCISCO in trade since the 1960s as a product identifier in Brazil. Under these circumstances it is evident for the Panel that the Respondent targeted the Complainant when registering the disputed domain name consisting entirely of the sign USINA SÃO FRANCISCO (without the tilde on the letter "a" which cannot be reproduced under the standard domain name system).

(2) These findings are confirmed by further circumstances related to the use of the disputed domain name:

According to the Complainant's documented allegations the disputed domain name resolved to an active website that imitated the Complainant's main operating website, without authorization and makes it appear as if it was the Complainant's website. In particular, the Respondent's website under the disputed domain name (i) related as well to the sugar business, which is the Complainant's core business, (ii) prominently displayed the Complainant's full company name and trademark UFRA and the Complainant's logo on the landing page.

Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant's trademark not only when it registered the disputed domain name but also when he tried to pass himself off as the Complainant.

Finally, the following circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- (i) the disputed domain name is connected to active MX servers, so that Respondent could be engaged in a phishing scheme;
- (ii) a clear absence of rights or legitimate interests coupled with no response for the Respondent's choice and use of the disputed domain name; and

(iii) the fact that the details disclosed for the Respondent by the Registrar are incomplete, noting the courier's inability to deliver the Center's Written Notice.

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 <usinasaofrancisco.com> be transferred to the Complainant.

/Tobias Malte Müller/

Tobias Malte Müller

Sole Panelist

Date: August 28, 2025