Decision for dispute CAC-UDRP-101017

Case number	**CAC-UDRP-101017**
Time of filing	**2015-07-14 09:52:35**
Domain names	**lefigaro.club**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**SOCIETE DU FIGARO S.A.**

Complainant representative

Organization	**Nameshield (Anne Morin)**

Respondent

Name	**Magnum Domains**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of different trademark registrations for "LE FIGARO". In particular SOCIETE DU FIGARO S.A. owns:

- U.S. Registration for "LE FIGARO" no. 0571473 filed on September 9, 1948, registered on March 19, 1953 and duly renewed for goods in class 16;

- International Registration for "LE FIGARO" no. 319381 registered on August 26, 1966 and duly renewed for goods in class 16;

- International Registration for "LE FIGARO" no. 655549 registered on March 29, 1996 and duly renewed for goods and services in classes 03, 08, 09, 12, 20, 21, 24, 28, 30, 34, 35, 38, 39, 41 and 42

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant SOCIETE DU FIGARO S.A. operates a French national daily newspaper (LE FIGARO). The company covers foreign and domestic politics, the economy, sport, science, medicine and the arts. The company was founded in 1826 and is based in Paris, France. LE FIGARO is the second-largest national newspaper in France after Le Parisien and before Le Monde.

In consideration of the above "LE FIGARO" is a well-known trademark all over the world; previous decisions rendered by WIPO recognized that "LE FIGARO" is a distinctive trademark

The Complainant is the owner of different trademarks and domain names consisting of the wording LE FIGARO.

The disputed domain name <lefigaro.club> was registered on May 7, 2015 by the Respondent. The website corresponding to the domain name in dispute consists of a parking page with pay per click links connected to the Complainant's business. Furthermore the contested domain name appears listed for sale on the Sedo platform for USD 1.980.

The Complainant states that the disputed domain name <lefigaro.club> is identical to the Complainant's trademark "LE FIGARO" and to the Complainant's domain names including this wording.

The Complainant states that the Respondent is not affiliated with him nor authorized by him in any way. The Complainant states that the Respondent has no right nor legitimate interest in the disputed domain name and it is not related in any way to its business. The Complainant does not carry out any activity for, nor has any business with the Respondent. The Respondent is not commonly known by LE FIGARO or by other names similar to the disputed domain name.

The website corresponding to <lefigaro.club> consists of a parking page with pay per click links related to Complainant's business and therefore Complainant assumes that the Respondent has registered the domain name to attract, for commercial gain, internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website.

In addition, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with the full knowledge of the Complainant's trademarks.

Finally, the Respondent was also the respondent in a previous domain name dispute proceedings in relation to third party trademarks: NAF - 1465675 - Key Energy Services, LLC v. Magnum Domains - <keyenergy.co>.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or confusingly similar to a trademark or service mark in which the complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be

inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Paragraph 4(a) of the Policy provides that to obtain the transfer of the Domain Name, the Complainant must prove that each of the following elements is present:

(i) the 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 Domain Name; and

(iii) the Domain Name has been registered and is being used in bad faith.

A) The Complainant has established to have registered rights in the "LE FIGARO" trademark. Furthermore, it should be noted it is well established that the top-level domain name (i.e., ".club") should be disregarded for the purpose of examination whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (see, between many others, Playboy Enterprises International, Inc. v. John Taxiarchos, WIPO Case No. D2006 - 0561). Disregarding the gTLD, ".club", the disputed domain name is identical to the Complainant's trademark for it fully incorporates the Complainant's trademark adding no distinctive signs.

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

B) The Complainant has long standing rights in the mark "LE FIGARO". The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and as the Respondent was never authorized to use the domain name by the Complainant. The Respondent, in the absence of any response, has not shown any facts or elements to justify prior rights or legitimate interests in the disputed domain name. The Complainant has not licenced or otherwise permitted the Respondent to use the Complainant's marks in the disputed domain name. On the basis of the evidences submitted and in the absence of a response the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

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

C) The disputed domain name was registered by the Respondent on May 7, 2015, almost 50 years after the mark "LE FIGARO" was registered for the first time with WIPO (with effects in a large number of countries) by the Complainant. The Complainant has used the "LE FIGARO" trademark worldwide and so intensively that is impossible to believe that Respondent had no knowledge of the Complainant's trademark rights at the time of registration of the disputed domain name. In addition, given the distinctive trademark at stake, which has a very high grade of recognition on a worldwide basis, it is inconceivable that the disputed domain name had been registered by the Respondent without having in mind the Complainant's trademark. Therefore, in the Panel's view, the domain name <lefigaro.club> was registered in bad faith. Furthermore, the Respondent's use of a parking page associated with the disputed domain name <lefigaro.club> and which provides click-through opportunities is an action taken by Respondent to intentionally attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant's "LE FIGARO" mark as to the source, sponsorship, affiliation or endorsement of Respondent's website. Previous Panels have held that using the domain name as a parking page with pay-per-click links to third party websites may be evidence of bad faith when the registrant is using the domain name in this manner because of the similarity to the Complainant's trademark in the hope and expectation that the similarity will lead to confusion on the part of Internet users and results in an increased number of Internet users being drawn to that domain name parking page (MpireCorporation v. Michael Frey, WIPO Case No. D2009-0258; Paris Hilton v. Deepak Kumar, WIPO Case No. D2010-1364 and La Fee v. Pavol Icik, WIPO Case No. D2013-0526).
In addition, the Panel finds that the fact that Respondent put the Domain Name up for sale on an auction platform for USD 1.980 constitutes, in the particular circumstances of this case, strong evidence that the Respondent registered the Domain Name primarily for the purpose of selling it to the Complainant or one of its competitors for a valuable amount particularly high with respect to the costs connected to the registration of the same domain name.

The Panel therefore finds that the Respondent registered and is using the Domain Name in bad faith, in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **LEFIGARO.CLUB**: Transferred

PANELLISTS

Name	**Avv. Guido Maffei**

DATE OF PANEL DECISION 2015-08-10

Publish the Decision