Decision for dispute CAC-UDRP-101221

Case number	CAC-UDRP-101221
Time of filing	2016-06-10 09:16:53
Domain names	frenchopenlivestream.xyz

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	FEDERATION FRANCAISE DE TENNIS (FFT)

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	Ashwin Reddy

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 the international trade mark FRENCH OPEN, number 538170, which was registered on 22 June 1989.

FACTUAL BACKGROUND

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

The Federation Francaise De Tennis (Complainant) was founded in 1920. It promotes, organizes and develops tennis in France.

The Complainant provides France's representation at international meetings and organizes major tournaments such as the International of France at Roland Garros.

Since 1968, the tournament has also been known as the “French Open”. It is one of the four Grand Slam tournaments. The Complainant sells the TV rights for the whole tournament to selected official and exclusive broadcasters all around the

world.

The Complainant owns the international trade mark FRENCH OPEN registered on 22 June 1989. It has also registered numerous domain names that include its trade mark FRENCH OPEN.

The Respondent registered the disputed domain name <frenchopenlivestream.xyz> on 10 May 2016.

On 19 May 2016, the Complainant's agent sent a cease-and-desist letter to the Respondent regarding the registration of the disputed domain name <frenchopenlivestream.xyz.

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 trade mark 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 requires the Complainant to prove each of the following three elements:

(i) The disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complaint has rights.
(ii) The Respondent has no rights or legitimate interests in the domain name.
(iii) The domain name has been registered and used in bad faith.

Confusingly similar

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's international trade mark FRENCH OPEN. The domain name includes the Complainant's trade mark FRENCH OPEN and the addition of the generic term "live stream" and the suffix ".xyx". The Complainant says that these additions are not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trade mark FRENCH OPEN, nor change the overall impression that it is connected to the Complainant's trade mark. Further, the website connected to disputed domain name makes a clear reference to the Complainant by proposing links to "French Open 2016 Live", "French Open Live Streaming" and "Watch French Open Live", which support a real confusion with the Complainant's trade mark and activity.

The Panel is satisfied that the Complainant is the owner of trade mark registration for the mark FRENCH OPEN that predates the registration of the disputed domain name. The disputed domain name is comprised of the Complainant's trade mark FRENCH OPEN, plus the generic words "live stream" and the suffix ".xyz". The most distinctive part of the disputed domain

names is Complainant’s mark FRENCH OPEN. The addition of the generic words and the generic top level domain, do not prevent the disputed domain name <frenchopenlivestream.xyz> being confusingly similar to the Complainant’s trade mark FRENCH OPEN.

The Panel finds that the disputed domain name <frenchopenlivestream.xyz> is confusingly similar to the Complainant’s mark FRENCH OPEN.

No rights or legitimate interests

The Complainant contends that:

1. The Respondent is not affiliated with it, nor authorized in any way to use the trade mark FRENCH OPEN, nor does it carry out any activity for, or have any business with, the Complainant.
2. The main page of the website using <frenchopenlivestream.xyz> provides information on the Complainant, displays web links to “French Open 2016 Live”, “French Open Live Streaming” and “Watch French Open Live”, and displays a page with streaming videos links.
3. A disclaimer page on the website says “This blog is made available for educational purposes only”. This contradicts the website content, which proposes to the internet user to “watch free online”.
4. The Complainant restricts live broadcasting of the French Open tournament to selected official and exclusive broadcasters around the world. The Respondent is not an authorized broadcaster.
5. The Respondent has no rights or legitimate interests in the domain name <frenchopenlivestream.xyz> and has registered the disputed domain name to attract internet users by taking an advantage with the use of the Complainant’s trade mark “FRENCH OPEN” in the domain name, associated with the terms “LIVE STREAM”, and is also trying to make a non-legitimate profit.

The Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or a legitimate interested in the disputed domain name. The Respondent is not affiliated with it, nor authorized in any way to use the trade mark FRENCH OPEN. The content on the website indicates that the Respondent registered the disputed domain name to attract internet users by taking an advantage with the use of the Complainant’s trade mark. The Respondent has not filed a Response and has not contested any of the Complainant’s assertions nor provided any evidence of any rights or legitimate interests in the disputed domain name.

Panel finds that the Respondent does not have any rights or legitimate interest in the disputed domain name.

Registered and is being used in bad faith

The Complainant contends that:

1. The disputed domain is confusingly similar to its trade mark FRENCH OPEN and has been registered to take advantage of the Complainant’s goodwill in its trade mark, and to unduly benefit from creating a diversion of the internet users of the Complainant.
2. Given the distinctiveness of the Complainant's trade mark and reputation, and the content of its website, the Respondent has registered the domain name with full knowledge of the Complainant's trade mark FRENCH OPEN and uses it for the purpose of misleading and diverting Internet traffic.
3. The website’s content displays the Complainant's trade marks FRENCH OPEN and ROLAND GARROS without the Complainant’s authorization, and associated to live streaming web links using terms such as “French Open 2016 Live”, “French Open Live Streaming” and “Watch French Open Live”. This suggest that the Respondent may propose live streaming of the Roland Garros French Open 2016’s tournament, whereas the Complainant sells exclusive TV rights for the whole tournament to selected official broadcasters all around the world .
4. The Respondent displays on its website many sponsored links, in particular “Live Streaming”, French Open Tennis”, and “Roland Garros Tennis” intentionally to attract visitors for commercial gain by confusion with the Complainant’s trade mark, and to have made the registration with that intention, constituting registration and use in bad faith.

5. The Respondent has not answered to the cease-and-desist letter sent to him, and has not disabled the website attached to the disputed domain name, which is an indication that the Respondent’s use of the domain name is not in good faith.
6. The Complainant says that there is a likelihood of confusion among Internet users with the disputed domain name of Respondent believing that there is affiliation, partnership or association between Complainant and Respondent thereby having the effect of disrupting the business of Complainant and its official partners.

The Panel finds that it is highly unlikely that the Respondent was unaware of the Complainant's trade mark when registering the disputed domain name and that it registered and has used the disputed domain name, intentionally to attract visitors for commercial gain by creating confusion with the Complainant’s trade mark.

The Panel finds that the disputed domain name <frenchopenlivestream.xyz> has been registered and has been used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **FRENCHOPENLIVESTREAM.XYZ**: Transferred

PANELLISTS

Name	**Mrs Veronica Bailey**

DATE OF PANEL DECISION 2016-07-19

Publish the Decision