Decision for dispute CAC-UDRP-102744

Case number	CAC-UDRP-102744
Time of filing	2019-10-25 09:35:55
Domain names	annuairespagesjaune.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	PAGESJAUNES, SA

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Risto Jyjets

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other legal proceedings relating the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has provided evidence of ownership of the following trademark rights:
- “PAGES JAUNES”, French Trademark n° 3814209, registered on March 14, 2011;
- “PAGES JAUNES”, French Trademark n° 3235811, registered on July 10, 2003;
- “PAGES JAUNES”, French Trademark n° 3235812, registered on July 10, 2003;
- “PAGES JAUNES”, French Trademark n° 3235816, registered on July 10, 2003;
- “PAGES JAUNES”, French Trademark n° 99800905, registered on July 07, 1999;
- “PAGES JAUNES”, French Trademark n° 99800906, registered on July 02, 1999;
- “PAGES JAUNES”, French Trademark n° 97674262, registered on April 18, 1997.

Also, the Complainant is the owner of several domain names incorporating the trademark.

FACTUAL BACKGROUND

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

COMPLAINANT

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's trademarks

The Complainant states that the disputed domain name <annuairespagesjaune.com> is confusingly similar to its trademark PAGES JAUNES® and its domain names associated. The trademark is included in its entirety. The addition of the French term “Annuaires” makes clearly reference to the Complainant’s activity.

Prior decisions confirmed the rights of the Complainant:
WIPO case n° D2010-2035, Société Pages Jaunes v. Markus Weiler, International Yellow Pages, Ltd. < pagesjaunes.pro>;
WIPO case n° D2010-0480, Société Pages Jaunes v. Ilhan Yazar < pagesjaunesturc.com>;
WIPO case n° D2010-0356, Société Pages Jaunes v. Claudy Galais < pages-jaune.net>.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Respondent contends that the Respondent is not known as the disputed domain name.
Past panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name <annuairespagesjaune.com> and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark PAGES JAUNES®, or apply for registration of the disputed domain name by the Complainant.

The disputed domain name displays information in relation with the Complainant. The content in French language and the use of the color yellow could create a likelihood of confusion with the Complainant. Furthermore, there is no disclaimer or information to prove the legitimate interest for the domain name. On the contrary, the links “A propos de nous”, “Politique de confidentialité” and “Contact” prompt the users to download software, or possible malware.

3. The disputed domain name has been registered and is being used in bad faith

The Complainant’s trademark was well-established for many years in France at the time that the disputed domain name. Given the distinctiveness of the Complainant's trademark and its reputation, it is reasonable to infer that the Respondent has registered and used the domain name with full knowledge of the Complainant's trademark.

The website displays content in French that may be considered to be related to the Complainant. In addition, the site does not display any information about the publisher of the website. On the contrary, the legal notice or contact information prompt the users to download software, or possible malware. See Amazon Technologies, Inc. v. Timothy Mays aka Linda Haley aka Edith Barberdi, FA1504001617061 (Forum June 9, 2015) (“In addition, Respondent’s undenied use of the websites resolving from the contested domain names to distribute malware and other malicious downloads further illustrates its bad faith in the registration and use of those domain names.”).

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed 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 disputed 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 disputed 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

A) Confusing similarity

The Panel agrees with the Complainant's assertions that the addition of the "annuaire" component to the "pagesjaunes" well knows trademark is not only weightless in regards of the confusing similarity of the disputed domain name with the trademark, but is also able to reveal the full speculativa and bad faith nature of the disputed domain name itself.

B) Lack of legitimate rights or interests

With regards to the second prong established by UDRP Policy, the Panel is satisfied by the prima facie arguments put forward by the Complainant, even considering no response have been filed by the Respondent. The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent.

C) Registered or Used in Bad Faith

The Complainant was able to provide further indicia that the disputed domain name has been registered and used in bad faith, with the primarily intent to exploit the well-known status of Complainant's trademarks, even targeting the French public which belongs to the territory where the reputation of Complainant's trademarks is more intense. This is also consistent with established UDRP case-law.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ANNUAIRESPAGESJAUNE.COM**: Transferred

PANELLISTS

Name	**Roberto Manno**

DATE OF PANEL DECISION 2019-12-18

Publish the Decision