Decision for dispute CAC-UDRP-102958

Case number	CAC-UDRP-102958
Time of filing	2020-03-13 10:39:33
Domain names	frenchopen--2020.com, frenchopentickets2020.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	FEDERATION FRANCAISE DE TENNIS (FFT)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Shishir Ahmed

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any pending or decided legal proceedings which relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of numerous trademarks containing the expression “FRENCH OPEN”, such as follows:
The French trademark n°512760 FRENCH OPEN registered since 3 February 1989 and
The International trademark n°538170 FRENCH OPEN registered since 22 June 1989 and
The French trademark n°1658995 FRENCH OPEN registered since 29 April 1991 and
The International trademark n°732452 ROLLAND GARROS FRENCH OPEN registered since 17 April 2000.

The Complainant has also registered numerous domain names including the trademark "FRENCH OPEN", such as <frenchopen.org> registered since 9 April 1996.

The disputed domain names <frenchopen--2020.com> and <frenchopentickets2020.com> were registered on 13 February 2020 and resolve to websites displaying various information regarding tennis and links to buy tickets on a third-party website for various events unrelated to the tournament.

FACTUAL BACKGROUND

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

The Complainant was founded in 1920. The Complainant promotes, organizes and develops tennis in France and counts about 978 893 licensees in 2019. The Complainant also provides representation of France in international meetings and organizes major tournaments such as the International of France at Roland Garros.

The International of France of Roland Garros is the biggest tournament of the tennis season on clay and the only Grand Slam still competing on that surface. In the tennis world with an Anglophone majority, the tournament is also known as the “French Open” since 1968, the first year of the Open era.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

The Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed allegations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules because of the Respondent's failure to submit a response.

Therefore, in the absence of a response, it is appropriate to accept as true all allegations of the Complaint.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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 15(a) of the Rules for the UDRP ('the Policy') instructs this Panel to "decide a complaint on the basis of the statements and documents submitted 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 that complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

(1) the domain name registered by respondent is identical or confusingly similar to a trademark or service mark in which complainant has rights; and

(2) respondent has no rights or legitimate interests in respect of the domain name; and

(3) the domain name has been registered and is being used in bad faith.

The Complainant proved that it is the owner of the French trademark n°1512760 FRENCH OPEN and the International trademark n°538170 FRENCH OPEN since 1989 and the French trademark n°1658995 FRENCH OPEN since 1991 and the International trademark n°732452 ROLLAND GARROS FRENCH OPEN since 2000. This sufficiently establishes the required rights in the mark for purposes of the Policy. As such, the Panel finds that the Complainant has established its rights in the mark 'FRENCH OPEN'. All the Complainant's trademarks above are distinctiveness and well-known trademarks.

The disputed domain names <frenchopen--2020.com> and <frenchopentickets2020.com> were registered in 2020.

Rights

The Complainant states that by registering and using a domain name corresponding to a well-known mark, to forward internet users to the mark owner's alternate website the Respondent demonstrates knowledge of the mark and shows no legitimate purpose for registering or using it in the disputed domain names. The Panel finds that the disputed domain names are confusingly similar to the Complainant's trademark 'FRENCH OPEN' because the disputed domain names include it in its entirety. The addition of the generic term "TICKETS" or two dashes and the year "2020" to the trademark FRENCH OPEN and the use of the gTLD ".COM" are not sufficient elements to escape the finding that the disputed domain names are confusingly similar to the trademark 'FRENCH OPEN'. Moreover, when a distinctive trademark is paired with non-distinctive terms, the combination will typically be found to be confusingly similar to the distinctive trademark. It does not change the overall impression of the designations as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademarks and its domain names associated. See for instance CAC Case No. 102528, FEDERATION FRANCAISE DE TENNIS (FFT) v. Fundacion Comercio Electronico ("The Panel notes that the disputed domain name incorporates the Complainant's FRENCH OPEN trade mark in its entirety. Moreover, the addition of the generic term "tennis" and the number "2019" reinforces the likelihood of confusion as it could be considered by internet users as being connected to the Complainant's tennis tournament in 2019.") and CAC Case No. 101245, Fédération Française De Tennis (FFT) v. Kapil Kumar ("The Panel is of the opinion that the mere addition of non-distinctive text to a complainant's trademark constitutes confusing similarity, as set out in paragraph 4(a)(i) of the Policy").

The disputed domain names correspond directly to Complainant's well-known mark, and circumstances indicate that Respondent was aware of that mark since Respondent redirects the disputed domain names to Complainant's website. Such use constitutes bad faith as it deprives Complainant of control of the domain name, and the domain name could be used by the Respondent to profit illegitimately from Complainant's mark. See for instance CAC case No. 100579 FEDERATION FRANCAISE DE TENNIS (FFT) v. Bob Meadow ("In UDRP cases where the relevant trademark is recognizable within the disputed domain name, Panels agree that the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (see paragraph 1.7 WIPO Overview 3.0)" and "UDRP Panels also agree that the top-level domain is usually to be ignored for the purpose of determination of identity or confusing similarity between the disputed domain name and the Complainant's trademark as it is a technical requirement of registration (see paragraph 1.11.1 WIPO Overview 3.0)".

Thus, the Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, a Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain names. The Panel finds that the Respondent is not commonly known by the disputed domain names because the WHOIS information was not similar to the disputed domain names. Only the name of the Respondent "Shishor Ahmed" can show the absence of a prima facie link between its name and the trade mark of the Complainant.

The Respondent did not prove neither that it is affiliated with or authorized by the Complainant in any way or does have any license or authorization which have been granted to it to make any use of the Complainant's trademark 'FRENCH OPEN', or that the Respondent applied for registration of the disputed domain names by the Complainant. Thus, the Panel believes in the Complainant that the Respondent has no rights or legitimate interests in respect of the disputed domain names and that the Complainant does not carry out any activity for, nor has any business with the Respondent

Thus, 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 names (within the meaning of paragraph 4(a)(ii) of the Policy).

The domain name(s) has been registered and is being used in bad faith

The Panels finds that the websites shows a picture from the ATP Tour website from the tournament and refers to the matches that will take place during the tournament. The Complainant's asserts the timing of this registration suggest targeting the Complainant's 'FRENCH OPEN' trademark. Given that the Roland Garros tournament should begin on 24 May 2020 the Panel finds that the titles of the websites "French Open Tickets 2020, Roland-Garros : Packages & Tickets Prices" and "french open 2020 - Tickets, Tv Channel, Live Stream & More" worsens this assertion and the Respondent's registration constituted a clear bad faith because of the distinctiveness of the Complainant's trademark and reputation. It is obvious that the Respondent has registered the disputed domain names with full knowledge of the Complainant's trademark F'FRENCH OPEN'.

Furthermore, the disputed domain names resolve to websites displaying various information regarding tennis and links to buy tickets on a third-party website for various events unrelated to the tournament. The websites also display an official picture of the tournament from the ATP Tour website (the Association of Tennis Professionals (ATP) is a main men's tennis governing body). The Complainant contends that the Respondent has intentionally attempted to attract for commercial gain Internet users to its websites by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of the web sites likely to disrupt the business of the Complainant. (see for instance CAC No. 102158 FEDERATION FRANCAISE DE TENNIS (FFT) v. Md Abdullah Al Muktadir ("As a previous panel wrote in a proceeding also involving the FRENCH OPEN Trademark and multiple domain names that were associated with a website that "purported to provide information about the French Open tournament, including an invitation to 'Tennis TV Live streaming'," The use which has been made of each of the disputed domain names has clearly been commercial in character and reliant upon the reputation of the Complainant's trade marks to attract Internet users to the websites to which the disputed domain names resolve. That use has been made without the license or authority of the Complainant.") and Forum Case No. FA 1815420, Coachella Music Festival, LLC v. gina leslie ("The web sites to which the Domain Names redirect offer links to commercial concert ticket services not associated with the Complainant. They do not make it clear that there is no commercial connection with the Complainant. The Panel finds this use is confusing. As such it cannot amount to the bona fide offering of goods and services.")).

Thus, the Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iïi) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **FRENCHOPEN--2020.COM**: Transferred
2. **FRENCHOPENTICKETS2020.COM**: Transferred

PANELLISTS

Name	**JUDr. Vojtěch Trapl**

DATE OF PANEL DECISION 2020-04-08