

## Decision for dispute CAC-UDRP-103994

Case number CAC-UDRP-103994

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Time of filing 2021-08-25 09:33:45

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Domain names service-canalplus.net

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### Case administrator

Organization Denisa Bilík (CAC) (Case admin)

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### Complainant

Organization GROUPE CANAL +

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### Complainant representative

Organization NAMESHIELD S.A.S.

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### Respondent

Organization costes

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#### 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.

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#### IDENTIFICATION OF RIGHTS

The Complainant owns a large portfolio of trademarks including the wording "CANAL PLUS", such as:

- International trademark CANAL PLUS® n° 509729, registered since March 16th, 1987 and duly renewed; and
- International trademark CANAL PLUS® n° 619540, registered since May 5th, 1994 and duly renewed.

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#### FACTUAL BACKGROUND

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

The Complainant is the leading French audiovisual media group and a top player in the production of pay-TV and theme channels and the bundling and distribution of pay-TV services. With 22 million of subscribers worldwide, the Complainant offers various channels available on all distribution networks and all connected screens.

The Complainant owns multiple domain names consisting in the wording "CANAL PLUS" such as <canalplus.com> registered since May 20th, 2006 and <canal-plus.com> registered since March 28th, 1996.

The disputed domain name <service-canalplus.net> was registered on August 16th, 2021 and resolves to a page with customer's access. The domain name is now deactivated.

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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#### 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).

The disputed domain name <service-canalplus.net> is identical to the Complainant's trademark CANAL PLUS®. Indeed, the trademark is included in its entirety, without any addition or deletion.

The addition of the French term "SERVICE" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark. It does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademark.

Previous UDRP decisions confirmed the Complainant's rights:

- CAC Case No. 102861, GROUPE CANAL + v. Nicolas Courtier <canalplus.watch>;
- WIPO Case No. D2019-2942, Groupe Canal + v. Paweł Zawiszewski, Antena <canalplus.tech>;
- WIPO Case No. D2006-1240, Groupe Canal+ Company v. Jinsoo Yoon <canalplus.com> ("The mark and the phonetic "canal plus" phrasing are widely known in Europe and other locations. The Complainant claims rights relating to the mark since the 1980s. It obtained formal registration of the mark in multiple jurisdictions, and used the mark in business operations long before the Respondent registered the domain name.").

Thus, the disputed domain name is identical to the Complainant's trademark.

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#### 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).

According to the WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd., a 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, 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 UDRP.

The Respondent is not identified in the WHOIS 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. Thus, the Respondent is not known as the disputed domain name. Please see for instance Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy paragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c) (ii).").

The Respondent has no rights or legitimate interests in respect of the domain name <service-canalplus.net> 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 licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name by the Complainant.

Furthermore, the disputed domain name was used for attempt of scamming and today, the domain name is inactive. It demonstrates a lack of legitimate interests of the Respondent in respect of the disputed domain name.

Accordingly, the Respondent has no rights or legitimate interests to the disputed domain name <service-canalplus.net>.

#### 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).

The disputed domain name <service-canalplus.net> is confusingly similar to its distinctive trademark CANAL PLUS®. Furthermore, given the use of the domain name, the Panel contends that the Respondent has registered in knowledge of the Complainant's trademark.

Moreover, the disputed domain name was used for a website reproducing the Complainant's logo, clearly gave the Internet user the impression that the website was an official website of the Complainant. The purpose of the website was to gather personal and/or proprietary information from the Complainant's customers by requesting information that could be used to breach the Complainant's customer's accounts. The Panel therefore finds that the disputed domain name has been used in bad faith to intentionally attempt "to attract, for commercial gain, Internet users to the Respondent's 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 the respondent's website".

On these bases, the panel concludes that the Respondent has registered and is using the disputed domain name <service-canalplus.net> in bad faith.

#### 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

The disputed domain name <service-canalplus.net> is confusingly similar to its distinctive trademark CANAL PLUS®. Furthermore, given the use of the domain name. The Panel contends that the Respondent has registered in knowledge of the Complainant's trademark.

Moreover, the disputed domain name was used for a website reproducing the Complainant's logo, clearly gave the Internet user the impression that the website was an official website of the Complainant. The purpose of the website was to gather personal and/or proprietary information from the Complainant's customers by requesting information that could be used to breach the Complainant's customer's accounts. The Panel therefore finds that the disputed domain name has been used in bad faith to intentionally attempt "to attract, for commercial gain, Internet users to the Respondent's 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 the respondent's website".

#### FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SERVICE-CANALPLUS.NET**: Transferred

#### PANELLISTS

Name
Thomas Hoeren

DATE OF PANEL DECISION 2021-09-17

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Publish the Decision

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