

Decision for dispute CAC-UDRP-104362

Case number	CAC-UDRP-104362
Time of filing	2022-02-16 09:21:20
Domain names	harmonies-mutuelle-fr.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	HARMONIE MUTUELLE
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	toni Carl
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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.

IDENTIFICATION OF RIGHTS

The Complainant is - among others - the owner of the French trademark registration n° 3802026 "HARMONIE MUTUELLE" since 2011.

The Complainant also owns several domain names incorporating the wording "HARMONIE", such as <harmonie-prevention.net> (since 2014).

FACTUAL BACKGROUND

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

The Complainant is a well-known French mutual insurance, with more than 4.5 million clients and approximately 4400 employees. The Complainant is the owner of trademark registrations consisting of the wording "HARMONIE MUTUELLE".

The Respondent has registered the domain name <harmonies-mutuelle-fr.com> only last January 28, 2022. According to the

Complainant, the disputed domain name would reproduce its registered trademark, with the addition of letter "s" in "harmonie" and of wording "FR" after "mutuelle".

The Complainant affirms that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is not related in any way with the Complainant's business. In particular, the Complainant states that the Respondent is not affiliated with "HARMONIE MUTUELLE", nor authorized by such company in any way. In addition, The Complainant affirms it currently 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, or apply for registration of the disputed domain name by the Complainant.

The Complainant contends that the disputed domain name has been registered and being used in bad faith. In particular, given the distinctiveness of the Complainant's trademark and its reputation, the only conclusion would be that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark.

The disputed domain name is currently inactive and the Respondent did not provide any explanation concerning the registration (and the passive use) of the disputed domain name.

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

THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO THE COMPLAINANT'S TRADEMARK

The Panel finds that the disputed domain name is confusingly similar to the trademark "HARMONIE MUTUELLE" and to the relative domain names registered by the Complainant, which has proven to have prior rights since 2011.

In particular, the Panel agrees that the addition of the geographical term "FR" refers to the country of the Complainant and is an element which surely does not avoid the likelihood of confusion, because it does not change the overall impression of the designation as being connected to the Complainant's trademark.

Also taking into account similar WIPO and CAC decisions – even involving the present Complainant, such as Case No. 100851 HARMONIE MUTUELLE v. Fundacion Private Whois <harmonie-mutuelle-fr.com> - the Panel accepts the contentions of the Complainant.

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

According to the information provided by the Complainant, the Respondent is not affiliated nor authorized by the Complainant in any way. Likewise, the Complainant neither licensed nor authorized the Respondent to make any use of its trademark "HARMONIE MUTUELLE", or to apply for registration of the disputed domain name on behalf of the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

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

Given all the above and taken into account the fact that the Respondent did not provide any response within the present proceeding, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in <harmonies-mutuelle-fr.com>.

THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name. This prima facie evidence was not challenged by the Respondent.

As a matter of fact, given the distinctiveness of the Complainant's trademarks and reputation, it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's rights in the trademark, which evidences bad faith.

In the absence of a response from Toni Carl and given the reputation of the Complainant and its trademark, especially in France, the Panel infers that the Respondent had the Complainant's trademarks "HARMONIE MUTUELLE" in mind when registering the disputed domain name.

Consequently, the Panel believes that the same was registered and is being (passively) used in bad faith, in order to prevent the Complainant from reflecting the mark in the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **HARMONIES-MUTUELLE-FR.COM**: Transferred

PANELLISTS

Name	Tommaso La Scala
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DATE OF PANEL DECISION 2022-03-21

Publish the Decision
