

Decision for dispute CAC-UDRP-104667

Case number	CAC-UDRP-104667
Time of filing	2022-06-23 09:38:16
Domain names	stphaneplazaimmobilier.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	SP Holding
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	Transure Enterprise Ltd
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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 the proprietor of the trade mark STEPHANE PLAZA under the Madrid international system (1365385, registered 29 June 2017, on the basis of a French national mark) and as an EU trade mark, and the trade mark STEPHANE PLAZA IMMOBILIER under French law (4020283, registered 8 July 2013). These marks subsist in classes including 16 (printed matter, stationery, art, and related) and a series of classes in respect of services, notably including class 36 in respect of real estate and financial affairs.

FACTUAL BACKGROUND

The Complainant, a company with its seat in Paris, France, is active in the field of real estate services, with its activity appearing to be concentrated in France. It is a network of agents and derives its name from its founder, the well-known agent Stéphane Plaza, who enjoys a high public profile in France on account of television appearances in particular, and the French-language term 'immobilier' (real estate). It operates a website at the domain name <STEPHANEPLAZA.COM>, which is registered on 26 December 2008, and <STEPHANEPLAZAIMMOBILIER.COM>.

The Respondent, a limited company with its seat in Wilmington, Delaware, USA, registered the disputed domain name on 20 April 2022. The disputed domain name currently points to a website with a series of sponsored links and a note that the domain name may be available for purchase.

PARTIES CONTENTIONS

No administratively compliant Response has been filed. As neither the written notice of the Complaint nor the advice of delivery thereof was returned to the Provider, it is not known whether written notice was received by the Respondent or not. Messages sent to the email addresses believed to be associated with the Respondent, including the details it supplied at the point of registration, were returned as undeliverable. The Respondent never accessed the online platform.

The Complainant contends that all aspects of the Policy have been satisfied and that the disputed domain name should be transferred to it. The Complainant has supplied relevant evidence annexed to the Complaint; its detailed contentions are summarised under each heading, below.

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 difference between the disputed domain name and the mark in which the Complainant has rights, disregarding the generic TLD .com in accordance with established practice under the Policy, is the omission of the character E from the string 'STEPHANEPLAZAIMMOBILIER' - that is, the 'STEPHANE' component is instead 'STPHANE' in the disputed domain name. It is therefore clear that the disputed domain name is confusingly similar to the Complainant's mark, especially on the basis set out in the WIPO Jurisprudential Overview, version 3.0, para 1.9 (misspelling of marks). Moreover, the disputed domain name incorporates (again with the misspelling taken into account) the Complainant's other mark STEPHANE PLAZA and the term IMMOBILIER ('real estate' in French), which is descriptive of the Complainant's activities.

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).

The Complainant contends that the Respondent is not affiliated with nor authorised by the Complainant in any way, that no licence or authorisation has been granted by the Complainant to the Respondent to make use of its mark, and that the Complainant does not carry out any activity for, nor has any business with the Respondent. The Panel notes that the Respondent is known as 'Transure Enterprise Ltd' and that there is no apparent relationship between the Respondent on one hand and the text of the disputed domain name on the other.

It is also accepted that, as the disputed domain name currently points to a 'parking' web page comprised of sponsored links (a number of which make reference to the above-mentioned term 'immobilier' or its derivatives in French e.g. immobiliere), there is no further basis on which the Complainant's prima facie case has been challenged e.g. in the form of rights or legitimate interests in the terms contemplated by the Policy. As the Respondent has declined to participate in the present proceedings, and no other relevant information is available, the Panel accepts that the Complainant has satisfied the requirements of this aspect 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).

The Panel places due weight upon the close similarity between the Complainant's mark and the disputed domain name, finding that although the mark of most relevance is a national mark under French law and the Complainant does business primarily in France, it is nonetheless very likely, in light of the distinctiveness of the words chosen (including the personal

name Stephane Plaza) and the minor nature of the misspelling, that the Respondent will have had the Complainant, its founder, and its marks and activities, in mind at the point of registration. There is no other meaning associated with the disputed domain name and, as noted under the first element of analysis above, it is highly likely that the Respondent's intention was to register a domain name consisting of the most minor misspelling of the Complainant's mark (one character). The Panel accepts the evidence supplied by the Complainant in respect of the well-known nature of its business.

The panel further finds that the use of the disputed domain name by the Respondent is within the scope of one of the non-exhaustive examples of use in bad faith as set out in paragraph 4(b)(iv) of the Policy: that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. In this context, the Panel notes in particular that the Respondent's use of a minor misspelling of the Complainant's mark attracts Internet users to its page of sponsored (pay per click) links.

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

In the absence of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name. On the other hand, it is clear that the Complainant has rights in respect of the trade marks STEPHANE PLAZA and STEPHANE PLAZA IMMOBILIER, and that the misspelling of the component STEPHANE as STPHANE does not prevent a finding of confusing similarity with the Complainant's marks. It is likely, in light of the nature of the Complainant's mark and activities, and the name and profile of its co-founder, that the Respondent would have been aware of the Complainant and its particular business, and that the Respondent is intentionally using the disputed domain name to attract Internet users to its page of sponsored links, an established form of bad faith use under the Policy. The Panel can find for these reasons that the disputed domain name was registered and is being operated in bad faith, and that the Respondent, through its failure to participate, has not pointed to any rights, legitimate interests, or the absence of bad faith registration or use. The requirements for the acceptance of a Complaint under paragraph 4 of the Policy have therefore been met, and the Panel ordered that the disputed domain name be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. STPHANEPLAZAIMMOBILIER.COM: Transferred

PANELLISTS

Name	Dr Daithi Mac Sithigh
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DATE OF PANEL DECISION 2022-08-11

Publish the Decision
