

Decision for dispute CAC-UDRP-104995

Case number	CAC-UDRP-104995
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Time of filing	2022-11-18 09:38:37
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Domain names	foncia-gestion.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	EMERIA EUROPE
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Complainant representative

Organization	ATOUT PI LAPLACE
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Respondent

Name	Edmond pupil
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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 EMERIA EUROPE, which was formerly known as "FONCIA GROUPE", owns various national, international and EU trademark registrations for the word "FONCIA", including the French national trademark registration n. 3897177 "FONCIA" (with design), registered on June 8th, 2012, for various services in classes 36, 38, and 43.

The disputed domain name was registered on October 27th, 2022, i.e., the Complainant's trademark registration cited above predates the registration of the disputed domain name.

FACTUAL BACKGROUND

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

The Complainant is a French company and the world's leading provider in real estate services, which includes managing individual apartments and building areas, lease management, joint property management, renting, brokerage and ancillary services such as insurance brokerage etc. The Complainant's residential real estate services businesses is the market leader in France, where it operates under the brand name "FONCIA" through a network of over 500 branches.

The Complainant has no business or other relationship with the Respondent. The Complainant has not granted a license (or any other

authorization) to the Respondent to use the trademark “FONCIA”, or to apply for registration of the disputed domain name.

The Complainant contends that, given the distinctiveness and reputation of the Complainant's “FONCIA” brand, it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of the Complainant's trademark rights.

The disputed domain name resolves to a parking website which displays advertising for, inter alia, property management services offered by various competitors of the Complainant.

On October 28th, 2022, the disputed domain name was used to send a phishing email which seemed to originate from an employee of the Complainant, namely Complainant's Deputy CFO-VP Finance/Corporate Development. The Complainant contends that it was the Respondent who abused the disputed domain name to send this phishing email.

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 confusingly similar to the Complainant's distinctive trademark “FONCIA”. The addition of the descriptive term “-gestion” (which means “-management” in French) does not reduce, but rather reinforces the confusion if the disputed domain name is used, as in the present case, to send phishing emails that seem to originate from a member of the Complainant's management team.

The Panel further finds that the Complainant successfully submitted prima facie evidence that the Respondent has neither made any use of, or demonstrable preparations to use, 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, nor is commonly known under the disputed domain name. The Respondent's use of the disputed domain name for phishing purposes is designed to be deceptive and confusing; as such, it cannot amount to a bona fide offering of goods or services or a legitimate fair use. The Complainant's prima facie evidence was not challenged by Respondent.

The Respondent's abuse of the disputed domain name for phishing purposes is as evident case of registration and use in bad faith within the meaning of paragraph 4(a)(iii) of the Policy, see Section 3.4 of the WIPO Jurisprudential Overview 3.0 and the numerous cases cited therein. Again, the Complainant's prima facie evidence regarding the Respondent's phishing activities was not challenged by Respondent.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **foncia-gestion.com**: Transferred

PANELLISTS

Name	Thomas Schafft
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DATE OF PANEL DECISION	2022-12-18
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Publish the Decision