

Decision for dispute CAC-UDRP-105115

Case number	CAC-UDRP-105115
-------------	-----------------

Time of filing	2023-01-09 09:17:33
----------------	---------------------

Domain names	canalplus.vin
--------------	---------------

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
--------------	---------------------------------

Complainant

Organization	GROUPE CANAL +
--------------	----------------

Complainant representative

Organization	NAMESHIELD S.A.S.
--------------	-------------------

Respondent

Organization	proje2023
--------------	-----------

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

Complainant states, and provides evidence to support, that it is the owner of “a large portfolio of trademarks including the wording ‘CANAL PLUS’,” including Int’l Reg. Nos. 509,729 (registered March 16, 1987) and 619,540 (registered May 30, 1994) (the “CANAL PLUS Trademark”).

FACTUAL BACKGROUND

Complainant states that it 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”; that it “offers various channels available on all distribution networks and all connected screens, and VOD and streaming services”; and that it has “20.3 million of subscribers worldwide and a revenue of 5.268 billion euros.” Complainant also states, and provides evidence to support, that it is the registrant of the domain names <canal-plus.com> (created March 27, 1996) and <canalplus.com> (created May 19, 2006).

The Disputed Domain Name was created on December 29, 2022, and is being used in connection with a website that, as described by Complainant and as shown in a screenshot provided with the Complaint, “offer[s] movies streaming and download services.”

PARTIES CONTENTIONS

Complainant contends, in relevant part, as follows:

Paragraph 4(a)(i): Complainant states that the Disputed Domain Name is confusingly similar to the CANAL PLUS Trademark because it contains the CANAL PLUS Trademark “in its entirety, without any addition or deletion.”

Paragraph 4(a)(ii): Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, “the Respondent is not identified as the disputed domain name”; Respondent “is not related in any way with the Complainant”; “Complainant does not carry out any activity for, nor has any business with the Respondent”; “[n]either 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”; and “the disputed domain name points to a website offering movies streaming and download services..., which compete with the services provided by the Complainant.”

Paragraph 4(a)(iii): Complainant states that the Disputed Domain Name was registered and is being used in bad faith because, inter alia, “[t]he disputed domain name has been registered many years after the Complainant has established a strong reputation and goodwill in its marks”; and “the disputed domain name redirects to a website offering movies streaming and download services, which compete with the services offered by the Complainant.”

Respondent:

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 UDRP).

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 UDRP).

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 UDRP).

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

Identical or Confusingly Similar: Paragraph 4(a)(i):

Based upon the trademark registration cited by Complainant, it is apparent that Complainant has rights in and to the CANAL PLUS Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the CANAL PLUS Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., “canalplus”) because “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.” WIPO Overview of WIPO Overview 3.0, section 1.11.1.

Here, the Disputed Domain Name contains the CANAL PLUS Trademark – and only the CANAL PLUS Trademark – in its entirety (absent only the space that appears in the trademark, a character that cannot be included in a domain name). Therefore, it is obvious, without the need for elaboration, that the Disputed Domain Name is identical to the CANAL PLUS Trademark.

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, “the Respondent is not identified as the disputed domain name”; Respondent “is not related in any way with the Complainant”; “Complainant does not carry out any activity for, nor has any business with the Respondent”; “[n]either 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”; and “the disputed domain name points to a website offering movies streaming and download services..., which compete with the services provided by the Complainant.”

WIPO Overview 3.0, section 2.1, states: “While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the UDRP.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

Whether a domain name is registered and used in bad faith for purposes of the UDRP may be determined by evaluating four (non-exhaustive) factors set forth in paragraph 4(b) of the UDRP: (i) circumstances indicating that the registrant has registered or the registrant has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant’s documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’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 registrant’s website or location or of a product or service on the registrant’s website or location.

Numerous previous decisions under the UDRP have found that use of a domain name in connection with a website offering the same services as a complainant, where the complainant has established the first two elements under the UDRP, amounts to bad faith under paragraph 4(b)(iv) of the UDRP. See, e.g., *Trivago N.V. v. Mediatextual, S.L. B52516028*, WIPO Case No. D2019-1873 (finding bad faith where disputed domain names “are used to offer the same services that the Complainant offers”); *Accenture Global Services Limited v. hemingge*, WIPO Case No. D2014-1898 (finding bad faith where disputed domain name “was used to resolve to a website which appeared to offer similar services as the Complainant”); and *American Airlines, Inc. v. Privacy Service Provided by Withheld for Privacy ehf / Deepak Singh*, WIPO Case No. D2022-1757 (finding bad faith where disputed domain name was used in connection with a website “providing competing services”).

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **canalplus.vin**: Transferred

PANELLISTS

Name	Douglas Isenberg
------	------------------

DATE OF PANEL DECISION 2023-02-15

Publish the Decision