Decision for dispute CAC-UDRP-106261

Case number	CAC-UDRP-106261
Time of filing	2024-02-15 09:37:07
Domain names	parisg7.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	G7

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	IceNetworks Ltd.

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks, including the wording "G7," such as:

The French trademark “G7” n°4259547, registered on July 15, 2016; and

The European Union trademark “G7”, n°016399263 registered on July 7, 2017.

FACTUAL BACKGROUND

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

Founded in 1905, the Complainant (G7 Group) is Europe's leading cab operator and holds the leading cab booking platform in France and Europe, with 9,900 affiliated cabs. It also provides vehicle rental and logistics services. The Complainant relies on a team of 230 employees who make it possible to carry out over 20 million journeys every year.

Furthermore, the Complainant owns multiple domain names consisting of the wording “G7”, such as <g7.fr> registered since September 22, 1999.

The disputed domain name <parisg7.com> was registered on September 21, 2023.

PARTIES CONTENTIONS

COMPLAINANT:

1. The disputed domain name is identical or confusingly similar to its trademarks

The Complainant states that the disputed domain name is confusingly similar to its trademarks and its domain names associated. The addition of the term “PARIS” is not sufficient to avoid the likelihood of confusion. It is well-established that “a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP”.

Moreover, past Panels commonly stated that the gTLD is not relevant in the appreciation of confusing similarity.

2. The Respondent has no rights or legitimate interests in respect of the disputed domain name(s);

The Complainant contends that the Respondent is not known 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.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name 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 license 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.

Moreover, the disputed domain name points to a website purporting to be a Complainant’s competitor while using its graphic charter and pictures. The Complainant argues that Respondent does not use the disputed domain name for any bona fide offering of goods or services, and that it does not make a legitimate non-commercial or fair use thereof. Impersonation of a complainant, by using its trademark in a disputed domain name and seeking to defraud or confuse users, indicates a lack of rights or legitimate interests by the Respondent.

Additionally, use of a disputed domain name’s resolving webpage in order to offer competing goods or services may not qualify as a bona fide offering of goods or services nor as a legitimate non-commercial or fair use under Policy paragraphs 4(c)(i) & (iii).

Thus, the Complainant contends that the Respondent has no rights or legitimate interest on the disputed domain name.

3. The disputed domain name is registered and is/are being used in bad faith.

The Complainant asserts that the disputed domain name is confusingly similar to the well-known trademarks “G7”. Moreover, the disputed domain name points to a website purporting to be a Complainant’s competitor. Furthermore, all the results of an internet search for the terms "G7 PARIS" are related to the Complainant and its products and services.

Therefore, the Complainant asserts that Respondent registered the disputed domain name with actual knowledge of Complainant’s trademarks. Under Policy paragraph 4(a)(iii), actual knowledge can form a foundation for demonstrating bad faith registration and may be established by examining a respondent’s use of a disputed domain name.

Besides, the disputed domain name points to a website purporting to be a Complainant’s competitor while using its graphic charter and pictures. The Complainant further argues that Respondent registered and used the disputed domain name to attract Internet users and offer possibly fraudulent services while impersonating Complainant or, at a minimum, disrupt Complainant’s business by offering services in direct competition with Complainant. Prior Panel confirmed bad faith pursuant to Policy paragraphs 4(b)(iii) and (iv) when a respondent uses a confusingly similar domain name to attract Internet users and monetarily capitalize on that confusion.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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RESPONDENT:

Respondent highlighted several key points that underscore the distinct and legitimate use of the disputed domain name, and claimed the use is distancing it from any alleged confusion with the Complainant's “G7” trademarks.

Clear Declaration of Our Mark and Service

The Respondent claims it has taken proactive steps to ensure clarity and transparency regarding the nature of our website and the services it offers. This includes the addition of a comprehensive "About" section and "Terms and Conditions of Use" (CGU) on disputed domain name´s site. These sections explicitly delineate the scope, purpose, and ownership of our service, making it

abundantly clear to visitors that the Respondent an entirely separate entity from G7 and its affiliated services. "About" section carefully outlines the background, mission, and unique value proposition of Respondent´s service, ensuring that there is no mistaking this platform for that of the Complainant's.

No Use of G7 in Our Website Content

The Respondent notes that its website does not mention or reference the “G7” trademark or any related terms within the website content. This deliberate choice further emphasizes our commitment to avoiding any potential confusion between Respondent´s service and that of the complainant. The website and the disputed domain name's purpose and branding have been strategically developed to stand independently, without leaning on the reputation or recognition of the Complainant's trademarks.

Distinctive Visual Branding

Regarding the visual aspects of our website, the Respondent states that the color scheme chosen—red and black—is not exclusive to the Complainant and does not constitute a valid basis for alleging confusing similarity. These colors are commonly used in web design and branding across various industries due to their visual appeal and effectiveness in communication. The use of these colors is in line with standard design practices and does not, in any way, attempt to mimic or evoke the Complainant's branding. The selection of a website's color scheme is a creative and subjective decision, and the colors red and black are too generic to be considered proprietary to any single entity.

1. Lack of Confusing Similarity

Argument: The Complainant asserts that the disputed domain name is confusingly similar to the Complainant’s “G7” trademarks. However, the inclusion of "PARIS" significantly differentiates the disputed domain name from the Complainant's mark. The disputed domain name represents a distinct entity, focusing on a specific geographical area not explicitly covered or implied by the Complainant's trademarks. The addition of a geographical term to a domain name can change its target audience and service implication, thus reducing the likelihood of confusion.

2. Rights or Legitimate Interests

Argument: The Respondent asserts that it has legitimate interests in the disputed domain name for several reasons:

Distinct Service Offering: The services provided via the disputed domain name do not directly compete with or imitate those of the Complainant. Respondent´s website does not offer taxi services, contrary to the Complainant's claims, and thus does not mislead consumers or infringe upon the Complainant's market.

Use of the Domain: The disputed domain name is used in a manner unrelated to the Complainant's business and does not seek to capitalize on the Complainant's trademark reputation. This is a crucial distinction that underlines our legitimate interest in the disputed domain name.

3. Absence of Bad Faith

Argument:

No Intent to Mislead: The registration and use of the disputed domain name were not motivated by an intention to attract users by creating confusion with the Complainant's trademark. This is evidenced by the distinct nature of the content provided on Respondent´s website, which does not correspond to the services offered by the Complainant.

Lack of Competition: Since Respondent´s website does not offer similar services to those of the Complainant, there is no intention to disrupt their business or divert their customers. The claim of bad faith registration and use is therefore unfounded.

Evidence of Non-Confusion: The Complainant's assertion that an internet search for "G7 PARIS" leads only to their products and services does not hold, as Respondent´s website does not appear in such searches for taxi services. This further supports the argument that there is no likelihood of confusion created by the disputed domain name.

Conclusion:

The Respondent summarises that the measures it has implemented on the website, including the clear delineation of our service and branding as well as the careful selection of content and design elements, are a testament to Respondent´s intention to operate independently and without causing confusion with the Complainant's “G7” brand. The absence of any mention of “G7” in the website, coupled with the explicit explanations in "About" and "Terms and Conditions of Use" (CGU) sections, are indicative of our good faith in creating a distinct online presence. The use of common color schemes further supports the argument that such branding choices are not intended to infringe upon or capitalize on the Complainant's trademarks.

The Respondent requests the Complaint to be considered in light of these clarifications, affirming right of the Respondent to continue operating the disputed domain name without infringement on the Complainant's rights.

RIGHTS

To the satisfaction of the Panel, the Complainant has shown that the disputed domain name is identical or confusingly similar to the trademark 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 Complainant made an unsolicited submission on January 22, which the Panel will disregard, as there is no explanation provided by the Complainant owing to the exceptional circumstance which would justify why any of the additional information contained in the submission was not available and provided in the initial Complaint, as the persuasive section 4.6 of WIPO 3.0 Overview.

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

1. Identical or Confusingly Similar

First, the Panel is satisfied that the Complainant has shown it owns rights in the "G7" trademarks, with registration and evidence provided dating the trademark registration back to at least 2016.

Turning to analyze if there is a confusing similarity between the disputed domain name and the trademark, the Panel notes, based on the record at hand, that the disputed domain name includes the term "Paris" followed by the reproduction of the trademark in its totality, namely "G7". The addition of the geographical term "Paris" is not enough to dispel the finding of confusing similarity, since in the disputed domain name, one of the arguably most recognizable features is the trademark "G7" since "Paris" is just a geographical term. Still, in conjunction with the trademark "G7," it appears even to enhance the finding of confusing similarity, as it appears to refer to the Complainant directly; however, a complete analysis of this will be carried out below, but suffice to say that for the purposes of the first element of the Policy, the trademark and the disputed domain name appear to be confusingly similar.

In further support of the above, the Panel notes that the verbatim reproduction of the trademark is enough to find confusing similarity between the disputed domain name and the Complainant's trademarks, as per the persuasive nature of paragraph 1.7 of WIPO Overview 3.0 applied to the facts of this matter, "While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing".

Consequently, the Panel determines that the Complaint has satisfied the Policy's first element set under paragraph 4(a)(i).

2. Rights or Legitimate Interests

Based on the evidence on record, including the Complainant's assertions, along with the evidence provided and the response by the Respondent, the Panel must parse through these carefully.

Because a respondent in a UDRP proceeding is in the best position to assert rights or legitimate interests in a domain name, it is well established that after a complainant makes a prima facie case, the burden of production on this element shifts to the respondent to come forward with relevant evidence of its rights or legitimate interests in the domain name, as per the persuasive WIPO Overview 3.0, section 2.1.

In the matter at hand, the Complainant asserts the following:

1. The Respondent is not commonly known by the disputed domain name.
2. The Respondent is not related to the Complainant.
3. The Respondent is not authorized to conduct any business activity for the Complainant.
4. The Respondent has no license or authorization to use the trademarks.
5. The Respondent uses the disputed domain name in relation to a competitor website to the Complainant.

Thus, the Complainant has made a prima facie case, and the burden of production shifts to the Respondent.

Turning to the Respondent, the Respondent makes two key arguments regarding the second element of the Policy, namely that it offers distinct services from the Complainant, not aiming to compete or imitate those of the Complainant, and that it does not seek to capitalize on the Complainant's trademark reputation. In addition, the Respondent asserts that the content associated with the disputed domain name includes a sort of "disclaimer" indicating to Internet visitors that it is an entirely separate entity from "G7" and its affiliated services under the "About" section.

The mere arguments by the Respondent without any supporting evidence are not enough to convince the Panel that it must not have been aware of the existence of the Complainant's "G7" trademarks when selecting the disputed domain name. In fact, the arguments and facts in the case show the opposite. The Respondent claims that its services do not compete with the Complainant's, yet through a preliminary check, they do seem to be competing services, trying to evoke a similar feel to the Complainant's services, even if it does not appear to reproduce the trademark within the website associated to the disputed domain name. Without any convincing explanation, the selection of the disputed domain name was with a likely intention of confusing Internet users with a likely implied association with the Complainant. The disclaimer in the "About" section is not enough to dispel this suggested appearance of said relationship, as this disclaimer is not as clear and sufficiently prominent as it should be under persuasive section 3.7 of WIPO 3.0 Overview. However, this will be subject to further analysis under the element below.

Based on the above, the record at hand, and the balance of probability, the Respondent has consequently not rebutted the prima facie case, as described in paragraph 2.1 of WIPO 3.0 Overview.

Consequently, the Panel determines that the Respondent has no rights or legitimate interests in the disputed domain name. Subsequently, the Complainant has fulfilled the second requirement set under paragraph 4(a)(ii) of the Policy.

3. Registered and Used in Bad Faith

Per the record and evidence at hand, the Panel finds that the Respondent was likely aware of the Complainant and had the Complainant's trademark in mind when registering the disputed domain name. This is further reinforced by the fact that the "G7" trademark predates the registration of the disputed domain name as well as the global reputation of the "G7" mark, which indicates that the Respondent knew or should have known about the Complainant's rights when registering the disputed domain name.

Additionally, this conclusion is supported by the fact that the Respondent seems to evoke a connection to the Complainant's trademark by including the trademark "G7" as the dominant feature of the disputed domain name. Furthermore, the Respondent provides competing services to those of the Complainant while appearing to misrepresent a link between the disputed domain name and the Complainant. In this case, as supported by the record at hand, the Respondent appears to have targeted the Complainant on the balance of probabilities.

All the preceding analysis leaves the Panel no other option than to conclude that the most likely intention of the Respondent was to intentionally attempt to attract, for commercial gain, Internet users to its website/disputed domain name by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and/or disputed domain name, as per illustrated under paragraph 3.1 of WIPO 3.0 Overview.

In light of the case's circumstances, based on the available records, the Panel finds that the Complainant has proven that the disputed domain name was registered and is used in bad faith according to paragraph 4(a)(iii) of the Policy.

4. Decision

For the preceding reasons and in concurrence with the provisions specified under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **parisg7.com**: Transferred

PANELLISTS

Name	**Rodolfo Rivas Rea**

DATE OF PANEL DECISION 2024-03-04

Publish the Decision