Decision for dispute CAC-UDRP-106221

Case number	CAC-UDRP-106221
Time of filing	2024-02-01 15:50:21
Domain names	leparisienguide.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	LE PARISIEN LIBERE, SAS

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	ilyas ouchari

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

According to the evidence submitted by Complainant, Complainant is the owner of the following trademarks:
- French trademark n° 98732441 LE PARISIEN registration date 19 June 1998;
- French trademark n° 98732442 LE PARISIEN registration date 13 November 1998.

FACTUAL BACKGROUND

According to the information provided by the registrar the disputed domain name <leparisienguide.com> was registered on 24 December 2023.

The disputed domain name resolves to a website in the French language comparing five providers of IPTV (Internet Protocol Television).

PARTIES CONTENTIONS

COMPLAINANT:

According to the information submitted by Complainant is a French daily newspaper covering both international and national news, and local news of Paris and its suburbs. The paper was established in 1944, and was published for the first time on 22 August 1944.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademark. Complainant asserts that the addition of the generic term “GUIDE” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark LE PARISIEN.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Respondent is not related in any way with Complainant. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted to Respondent to make any use of Complainant’s trademark LE PARISIEN, or apply for registration of the disputed domain name.

According to Complainant the disputed domain name is registered and is being used in bad faith. Complainant has been operating since 1944 while the disputed domain name was only registered in 2023. Complainant’s trademark is a news publication and hence Respondent must have been fully aware of Complainant and its trademark when it registered the disputed domain name. The addition of the term “GUIDE” to the trademark LE PARISIEN cannot be coincidental, as it directly refers to Complainant’s purchase guide (or “Guide d’achat” in French). Thus, given the distinctiveness of Complainant's trademark and reputation, it is reasonable to infer that Respondent has registered the disputed domain name with full knowledge of Complainant's trademark. In addition, Complainant submits that the disputed domain name resolves to a website comparing IPTV subscriptions. Complainant undisputedly contends that Respondent, by offering media services similar to those provided by Complainant, attempts to attract Internet users by creating a likelihood of confusion with its trademarks, in order to obtain commercial gain from the use of the disputed domain name and the resolving website. Past Panels have held that this is an evidence of bad faith registration and use.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark or the principal part thereof in its entirety. Complainant has established that it is the owner of trademark registrations for LE PARISIEN. The disputed domain name incorporates the entirety of the well-known LE PARISIEN trademark as its distinctive element. The addition of the generic term “guide” and the deletion of the space between the “LE” and “PARISIEN” parts of the trademark in the disputed domain name, is insufficient to avoid a finding of confusing similarity as

the LE PARISIEN trademark remains the dominant component of the disputed domain name. The top-level domain “com” in the disputed domain name may be disregarded.
The Panel notes that Complainant’s registration of its trademarks predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. Respondent did not submit any response.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the LE PARISIEN trademark. Respondent, whose website is in the French language, knew or should have known that the disputed domain name included Complainant’s well-known mark. The Panel further notes that the disputed domain name incorporates Complainant’s well-known trademark in its entirety which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **leparisienguide.com**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2024-03-04

Publish the Decision