Decision for dispute CAC-UDRP-106337

Case number	CAC-UDRP-106337
Time of filing	2024-03-12 09:42:37
Domain names	service-foncia.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	EMERIA EUROPE

Complainant representative

Organization	ATOUT PI LAPLACE

Respondent

Organization	PrivacyGuardian.org llc

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 owns registered FONCIA trademarks in many jurisdictions, including:

- International trademark with registration number 554821 registered in June 6, 1990 designating the Benelux, Switzerland and Germany.
- European Union trademark with registration number 1470210 of March 6, 2001; and
- International trademark with registration number 941643 of May 4, 2007, designating the European Union, China, Liechtenstein, Monaco and Switzerland.

Such trademarks are hereinafter individually and jointly referred to as the "FONCIA trademark".

FACTUAL BACKGROUND

The Complainant is a French company providing in real estate services to individuals and businesses, with a network of over 500 branches in France and with a presence in Switzerland, Germany, the Benelux, Portugal and the United Kingdom. The Complainant represents 17,000 employees in 8 countries with more than 700 branches and has a turnover of €1.5 billion.

The Respondent registered the disputed domain name on February 26, 2024. The disputed domain name reverts to a parking page with PPC link adverting services similar to those offered by the Complainant, and is used for phishing activities. The registrar verification revealed that the Respondent uses at least a fake address and telephone number.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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

1. The Panel finds that the disputed domain name is confusingly similar to the FONCIA trademark, as the Respondent has taken this trademark in its entirety and merely added the descriptive word "service" and a hyphen to the FONCIA trademark, which does not distinguish the disputed domain name from the Complainant’s trademarks.
2. The Panel takes note of the various undisputed allegations of the Complaint, and in particular that no authorization has been given by the Complainant to the Respondent to use or register the disputed domain name, that the Respondent has not been commonly known by the disputed domain name, that the disputed domain name is used for a phishing scam with the intention of defrauding Internet users into providing certain information to the detriment of such Internet users who may have been confused to believe that the Respondent's communications through an email address using the disputed domain name were the Complainant's. The Complainant has provided an example of the fraudulent mailing the Respondent has sent using an email address under the disputed domain name. Fraudulent commercial use of the disputed domain name in this way qualifies neither as a bona fide offering of goods or services nor as a legitimate noncommercial or fair use. As such, the Panel is satisfied that the Complainant has undisputedly shown that the Respondent is involved in phishing scam activities via the disputed domain name, which in itself is sufficient to find that the Complainant has succeeded in making a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name (cf. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Jurisprudential Overview 3.0”), par. 2.13.1).
3. The trademark FONCIA is not a commonly used term, and Panel is satisfied that the Respondent sent phishing emails

mimicing the Complainant's figurative mark and artwork immediately after the registration of the disputed domain name, while the disputed domain name also reverts to a website displaying PPC advertisements in the realm of the Complainant's activities. Therefore, in the Panel's opinion, it is clear that the Respondent must have had the trademark FONCIA in mind at the time of registration of the disputed domain name. In the Panel's opinion, it is further clear that Respondent's use of the disputed domain name as part of a phishing scam, impersonating the Complainant, ostensibly to obtain certain information from Internet users as a result of the intentionally created confusion between the disputed domain name and the trademark FONCIA, constitutes a bad faith use of the disputed domain name (cf. WIPO Jurisprudential Overview 3.0, par. 3.1.4 and 3.4).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2024-04-11

Publish the Decision