Decision for dispute CAC-UDRP-106349

Case number	CAC-UDRP-106349
Time of filing	2024-03-13 15:35:13
Domain names	leparisien.top

Case administrator

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

Complainant

Organization	LE PARISIEN LIBERE, SAS

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	1337 Services 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 several trademark registrations inter alia the French trademark registration No. 98732441 "LE PARISIEN" and French trademark registration No. 98732442 "LE PARISIEN", both registered on May 14, 1998 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is a French daily newspaper covering both international and national news, and local news of Paris and its suburbs. Since 2015, Le Parisien has been owned by LVMH Moët Hennessy Louis Vuitton SE. The paper was established as “Le Parisien libéré” by Émilien Amaury in 1944, and was published for the first time on August 22, 1944.

The Complainant provides information on its products online inter alia at <leparisien.com>, registered since February 3, 1997.

The disputed domain name <leparisien.top> was registered on March 5, 2024 and is currently not used in connection with an active website.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is identical to the Trademark since it fully incorporates the Trademark.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent is not commonly known by the disputed domain name, that it is not affiliated with nor authorized by the Complainant in any way, that the Complainant does not carry out any activity for, nor has any business with the Respondent, and that neither license nor authorization has been granted to the Respondent to make any use of the Trademark or apply for registration of the disputed domain name by the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It contends that the Respondent must have been aware of the Complainant and its Trademark at the time of registration of the disputed domain name due to the distinctiveness and reputation of the Trademark and the Complainant, that the Respondent's non-use of the disputed domain name cannot be contemplated as legal and that the Respondent has been a cybersquatter also in other instances.

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 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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

(i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

1. The Panel finds that the disputed domain name is identical to the Trademark, as the disputed domain name wholly incorporates the Trademark. It is also well established that the TLD, i.e. in that case the ending ".top", is a standard registration requirement and as such is disregarded under the first element confusing similarity test.

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The

Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

3.1 The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is well-known.

3.2 Furthermore, the Panel accepts the Complainant's contentions that the disputed domain name has been used in bad faith even though there was no active use of the disputed domain name. It is the consensus view that the lack of active use of a domain name does not as such prevent a finding of bad faith under the Policy. In such cases, the panel must examine all the circumstances of the case to determine whether a respondent is acting in bad faith. Examples of circumstances that can indicate bad faith include a complainant having a well-known trademark, no response to the complaint, respondent's concealment of identity and the impossibility of conceiving a good faith use of the domain name (cf Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003; Jupiters Limited v. Aaron Hall, WIPO Case No. D2000-0574; Ladbroke Group Plc v. Sonoma International LDC, WIPO Case No. D2002-0131).

The Panel is convinced that the Trademark is well-know and based also on the pattern of the Respondent in other cybersquatting cases, the Respondent's conduct is revealing a pattern of bad faith. Furthermore, the Respondent failed to file a Response and therefore did not provide evidence of any actual or contemplated good faith use of the disputed domain name.

Taking all the circumstances into account and for all the above reasons, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **leparisien.top**: Transferred

PANELLISTS

Name	**Stefanie Efstathiou LL.M. mult.**

DATE OF PANEL DECISION 2024-04-23

Publish the Decision