Decision for dispute CAC-UDRP-106461

Case number	CAC-UDRP-106461
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Domain names	g7taxi-marseille.com

Case administrator

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

Complainant

Organization	G7

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	taxi service

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 a portfolio of trademark and service mark registrations for the G7 mark:

European trademark TAXIS G7 registration number 008445091, registered on January 12, 2010 for goods and services in classes 9,12,35,37 38 and 39;

French trademark G7 (figurative), registration number 4259547, registered on July 15, 2016 for goods in class 12;

European Union trademark G7 (figurative), registration number 016399263 registered on July 7, 2017 for services in classes 37, 38 and 39;

and has established a goodwill in the mark by its use in its taxi booking platform as described below.

FACTUAL BACKGROUND

The Complainant provides booking services for taxis, vehicle rentals, and logistics which it operates using the G7 trademark and service mark for which it owns a large portfolio of trademark registrations described above.

The Complainant has an established Internet presence and owns a portfolio of Internet domain names incorporating the term “G7”, such as <g7.fr> registered since September 22, 1999 and <taxis-g7.com> registered since January 17, 1997.

The disputed domain name <g7taxi-marseille.com> was registered on November 26, 2023 and redirects to a website purporting to be that of a competitor of the Complainant offering taxi services.

There is no information available about the Respondent except for that provided in the Complaint, the Registrar’s WhoIs and the information provided by the Registrar in response to the request by the Centre to provide details of the registration of the disputed domain name in the course of this proceeding.

PARTIES CONTENTIONS

The Complainant

The Complainant claims rights in the G7 and TAXI G7 marks established by its ownership of the portfolio of trademark registrations described above and extensive use of the mark in its business offering taxi, vehicle rental, and logistics services, with 10,000 affiliated taxi cabs, and 230 employees carrying over 33 million people each year.

The Complainant alleges that the disputed domain name <g7taxi-marseille.com> is confusingly similar to its G7 and TAXIS G7 marks.

The Complainant argues that the addition of the term “MARSEILLE” is not sufficient to avoid a finding of confusing similarity, because 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 Policy. Citing Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin WIPO Case D2003-0888,

On the contrary, it is submitted that the addition of the city name “Marseille” to the Complainant’s trademark G7 worsens the likelihood of confusion, as it directly refers to the Complainant’s activities in that city.

Moreover, the Complainant argues that past panels established under the Policy have commonly stated that the generic Top Level Domain extension (“gTLD”) is not relevant when assessing confusing similarity of a complainant’s mark and a domain name at issue. See F. Hoffmann-La Roche AG v. Macalve e-dominios S.A. WIPO Case D2006-0451, (“It is also well established that the specific top level of a domain name such as “.com”, “.org” or “.net” does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.”).

Finally, the Complainant asserts that its rights over the trademark “G7” have been confirmed by panels established in previous cases under the Policy: G7 v. yassine el khimmer, Mercury Taxi WIPO Case No. D2024 0683, <taxig7- reservations.com>, and G7 v. Lahrayri WIPO Case D2023 2843, <taxig7parisien.com>.

The Complainant next alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name, <g7taxi-marseille.com>, arguing that according to Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case D2003 0455, a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Complainant argues that:

- the Respondent is not known as the disputed domain name;
- past panels established under the Policy have held that a respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the domain name at issue, see for instance Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group Forum Claim FA 1781783, (“Here, the WHOIS information of record identifies Respondent as “Chad Moston / Elite Media Group.”); The Panel therefore finds under Policy paragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).

- the Respondent is not related in any way with the Complainant;
- the Complainant does not carry out any activity for, nor has the Complainant 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 to apply for registration of the disputed domain name by the Complainant;
- moreover, the disputed domain name <g7taxi-marseille.com> resolves to a website purporting to be a Complainant’s competitor, which is neither bona fide offering of goods or services, nor a legitimate non-commercial or fair use of the disputed domain name;
- furthermore, 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 a Respondent. See President and Fellows of Harvard College v. Michael S. George / Harvard Business Council, Forum Claim FA 2003542 (Forum Aug. 25, 2022) (“The impersonation of a complainant in conjunction with a phishing scheme may indicate a lack of rights or legitimate interest in a disputed domain name”).

The Complainant next alleges that the disputed domain name <g7taxi-marseille.com> was registered and is being used in bad faith,

arguing that the disputed domain name is confusingly similar to the Complainant's G7 which is distinctive and well known, especially in France and in the taxi sector. See G7 v. taxi france (taxi france) CAC Case No. 105542, <g7-taxi.net> ("The Panel concludes that the Complainant's "G7" trademark is of distinctive character and is well-known in its sector. Therefore, the Panel is of the opinion that due to the earlier rights of the Complainant in well-known "G7" and "TAXIS G7" trademarks, the Respondent, was aware of the Complainant and its trademarks at the time of registration of the disputed domain name").

Moreover, the disputed domain name points to a website purporting to be that of a competitor of the Complainant.

Furthermore, as shown in search results exhibited in an annex to the Complaint, the first results of an internet search for the terms "G7", "TAXI" and "MARSEILLE" are related to the Complainant and its products and services, and in particular its official website.

Therefore, the Complainant asserts that the Respondent, which is also a French taxi company, registered the disputed domain name with actual knowledge of Complainant's trademarks. Under Policy 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. See iFinex Inc. v. xu shuaiwei, Forum Claim FA 1760249 (Forum Jan. 1, 2018) ("Respondent's prior knowledge is evident from the notoriety of Complainant's BITFINEX trademark as well as from Respondent's use of its trademark laden domain name to direct internet traffic to a website which is a direct competitor of Complainant").

The Complainant further argues that the Respondent registered and is using the disputed domain name to attract Internet users and offer possibly fraudulent services while impersonating the Complainant or, at a minimum, disrupt the Complainant's business by offering services in direct competition with the Complainant. In a similar case, a prior panel established under the Policy has confirmed bad faith pursuant to Policy 4(b)(iii) and (iv) when a respondent uses a confusingly similar domain name to attract Internet users and monetarily capitalize on that confusion. See G7 v. Lahrayri WIPO Case D2023 2843 <taxig7parisien.com> ("Similarly, it is clear that the Respondent is trying to attract the Complainant's potential customers to its website, which is clearly designed to create confusion between the "G7 offer" and the site put online by the Respondent, [...] which has no reason to exist other than to believe the Internet user that he is on the G7 site.").

The 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

The Complainant has provided uncontested convincing evidence of its rights in the G7 mark established by its ownership of the trademark and service mark registrations described above and extensive use of the mark in connection with its platform offering taxi, vehicle rental and logistics booking services with 10,000 affiliated taxi cabs and 230 employees, carrying over 33 million people each year.

The disputed domain name <g7taxi-marseille.com> consists of the Complainant's G7 mark, the term "taxi", "marseille", a hyphen,

and the gTLD <.com> extension.

The entirely of the Complainant's G7 mark is incorporated in the disputed domain name as the initial, dominant and only distinctive element.

Similarly, the Complainant's TAXIS G7 mark is clearly recognizable within the disputed domain name.

It is well established that it may be sufficient for a complainant to show that the domain name at issue incorporates the complainant's trademark or service mark to succeed in the first element of the test in Policy 4(a)(i).

Also in the present case, the terms "taxi", "marseille" are respectively descriptive and a geographical place name.

The gTLD extension <.com> would be ignored by Internet users as a necessary technical requirement for an Internet domain name.

So, the terms "taxi", "marseille", the hyphen and the gTLD extension <.com> do not add any distinctive element to the disputed domain name and do not prevent a finding that the disputed domain name is confusingly similar to the G7 mark.

This Panel finds therefore that since the disputed domain name is confusingly similar to the G7 and TAXIS G7 marks in which the Complainant has rights and the Complainant has therefore succeeded in the first element of the test in Policy 4(a)(i).

In its Complaint, the Complainant has made out a prima facie case that the Respondent has no rights legitimate interests in the disputed domain names as set out in the Complainant's detailed submissions above.

It is well established that once a complainant makes out a prima facie case that a respondent has no rights or legitimate interests in the domain name at issue, the burden of production shifts to the respondent to prove its rights or legitimate interests.

The Respondent has failed to discharge that burden and therefore this Panel must find that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has therefore succeeded in the second element of the test in Policy 4(a)(ii).

The Complainant has shown that it has uncontested rights in the G7 and TAXI G7 marks established by its ownership of the portfolio of registrations described above and extensive use of the marks in its business providing a booking platform for taxis, vehicle rental and logistics, which were established long before the disputed domain name was registered.

G7 and TAXI G7 are innovative marks in the context of taxi booking services. It is obviously more than a coincidence that the disputed domain name which incorporates the elements "taxi" and G7, was chosen and registered with a reference to the city of Marseilles where the Complainant has an established reputation and goodwill.

On the balance of probabilities the registrant of the disputed domain name was actually aware of the Complainant, its G7 and TAXIS G7 marks and the services that it provides when the disputed domain name was chosen and registered.

This Panel finds therefore that the disputed domain name was registered in bad faith with the intention targeting the Complainant and taking predatory advantage of the Complainant's goodwill and reputation.

The evidence shows that the disputed domain name resolves to a website that purports to provide competing taxi booking services. On the balance of probabilities therefore the disputed domain name is being used in bad faith to take advantage of the Complainant's goodwill and reputation in the mark within the disputed domain name. The disputed domain name is therefore being used in bad faith to attract, confuse and mislead Internet users, and to divert their traffic to the competing website as arranged by the Respondent.

As this Panel has found that the disputed domain name was registered and is being used in bad faith, the Complainant has therefore succeeded in the third element of the test in Policy 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **g7taxi-marseille.com**: Transferred

PANELLISTS

Name	**James Bridgeman**

DATE OF PANEL DECISION 2024-05-15

DATE OF PANEL DECISION

Publish the Decision