Decision for dispute CAC-UDRP-106549

Case number	CAC-UDRP-106549
Time of filing	2024-05-21 10:02:10
Domain names	canalplusclient.com

Case administrator

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

Complainant

Organization	GROUPE CANAL +

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Milen Radumilo

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. 1218827 "CANAL PLUS", registered on November 5, 1982 and duly renewed;
- The International trademark registration No. 509729 "CANAL PLUS", registered since March 16, 1987, and
- The International trademark registration No. 619540 "CANAL PLUS", registered since May 5, 1994 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is the leading French audiovisual media group and a top player in the production of pay-TV and theme channels and the bundling and distribution of pay-TV services. It has 26.4 million of subscribers worldwide and a revenue of more than 6 billion Euros.

The Complainant owns multiple domain names consisting of the wording “CANAL PLUS”, such as <canalplus.com> registered on May 20, 2008, <canal-plus.com> registered since May 28, 1996, <canalplus.fr> registered since September 25, 2008, <canalplus.net> registered since May 15, 2011 and <canalplus.org> registered since August 22, 2000.

The disputed domain name <canalplusclient.com> was registered on August 13, 2023 and redirects alternatively to another site that publishes pornographic content or a parking page.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark as the disputed domain name incorporates the Trademark in full as well as includes a generic term.

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 a licensee of the Complainant, nor has it been otherwise authorized or allowed by the Complainant to make any use of the Trademark, that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, that the Respondent is not commonly known by disputed domain name and that the Respondent's use of the disputed domain name is neither a legitimate non-commercial nor fair use.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. As to bad faith registration, the Complainant contends that the Trademark is a highly distinctive and thus, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. The Complainant further asserts that since the disputed domain name redirects to various pornographic websites or parking pages with commercial links the Respondent uses the disputed domain name to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Trademark as to the source, sponsorship, affiliation, or endorsement of Respondent's web site or location or of a product or service on Respondent's web site or location.

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 accepts that the disputed domain name is confusingly similar to the Trademark as it fully incorporates such trademark and the addition of the generic term "client" does not result in eliminating the confusing similarity of the disputed domain name vis-à-vis the Trademark. It is well also established that the specific top-level domain name generally is not an element of distinctiveness that can be taken into consideration when evaluating the identity or confusing similarity between the complainant's trademark and the disputed domain name.

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. Based on the evidence before the Panel, the Panel cannot find any rights or legitimate interests of the Respondent either. In particular, the Respondent failed to provide any information whatsoever with regard to its own rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the disputed domain name under paragraphs 4(a)(ii) and 4(c) of the Policy.

3.1 The Panel is also satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the well-established Trademark. The Panel assumes that the Respondent registered the disputed domain name with knowledge of the Complainant's rights in the Trademark. There is no contrary evidence displacing this presumption and the Respondent failed to provide any other justification for the registration of the disputed domain name.

3.2 As to bad faith use, by using the disputed domain name in connection with a website that is offering adult content and/or commercial pay-per-click links suggests that the Respondent is, in all likelihood, trying to divert traffic intended for the Complainant’s website to its own for commercial gain as set out under paragraph 4(b)(iv) of the Policy. Therefore, the Panel finds 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. **canalplusclient.com**: Transferred

PANELLISTS

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

DATE OF PANEL DECISION 2024-07-03

Publish the Decision