Decision for dispute CAC-UDRP-107547

Case number	CAC-UDRP-107547
Time of filing	2025-05-07 09:26:04
Domain names	ratphabitat.xyz

Case administrator

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

Complainant

Organization	REGIE AUTONOME DES TRANSPORTS PARISIENS (RATP)

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Nassim Bezzou

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 is the owner of the following trademark registrations:

- French trademark “RATP HABITAT” n° 4474934 registered on November 30, 2018;

- French trademark “RATP HABITAT” n° 4474925 registered on November 30, 2018.

FACTUAL BACKGROUND

COMPLAINANT:

The Complainant develops, operates, maintains and modernizes public transport systems. The RATP group is the world's 3rd largest urban transport operator, operating in 15 countries on five continents. It operates nine modes of transport on a daily basis, and employs 71,000 people. As part of its business activities, the Complainant owns the real estate subsidiary RATP HABITAT, established in 1959 which builds, renovates and manages a portfolio of housing, shops and residences in the Île-de-France region. RATP Habitat manages 9,334 housing units in the Île-de-France region, with 149 employees providing day-to-day support to 9,000

tenants. The Complainant is also the holder of numerous domain names including the terms "RATP HABITAT", including <ratphabitat.com>, registered since July 23, 2018.

The disputed domain name was registered on April 27, 2025 and resolves to a parking page with commercial pay-per-click links. There are also Mail Exchange (MX) records associated with the disputed domain name.

RESPONDENT:

No administratively compliant Response has been filed.

PARTIES CONTENTIONS

COMPLAINANT:

- the Complainant has rights in the registered RATP HABITAT trademark and the <ratphabitat.xyz> domain name is identical or confusingly similar to the trademark;

- the Respondent has no rights or legitimate interests in the disputed domain name as it is not commonly known thereby, and the domain name resolves to a page with pay-per-click links that seek to leverage the reputation of the Complainant's trademark; and

- the disputed domain name was registered and is used in bad faith where its resolving pay-per-click page seeks commercial gain based on confusion with the Complainant's trademark and there are MX records associated with the disputed domain name which indicate that it may be actively used for e-mail purposes.

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

1. Trademark Rights and Identity or Confusing Similarity

Sufficient evidence of trademark rights in the term RATP HABITAT has been submitted by the Complainant in the form of screenshots from the website of the French National Institute of Industrial Property (Institut National de la Propriété Industrielle, or

INPI), which show the details of its trademark registrations. As such, the Panel finds that the Complainant possesses rights in its asserted trademark.

Next, the second level of the disputed domain name consists entirely of the Complainant's trademark and the full disputed domain name only adds the ".xyz" TLD. This does not dispel the confusing similarity between the disputed domain name and the Complainant's trademark in a side-by-side comparison appropriate to Paragraph 4(a)(i). Entain Operations, Ltd. v. Chai Rui Chen, UDRP-106451 (CAC May 26, 2024) (bwin.tokyo found to be identical or confusingly similar to the BWIN trademark).

Also, top-level extensions such as ".xyz" and ".com" typically add no meaning or distinctiveness to a disputed domain name and may most often be disregarded in the Paragraph 4(a)(i) analysis. Novartis AG v. Wei Zhang, 103365 (CAC December 9, 2020) ("it is generally accepted that the addition of the top-level suffix in the domain name (e.g., '.com') is to be disregarded under the confusing similarity test").

Accordingly, the Panel finds that the Complainant has rights to its claimed trademark and that the addition of a gTLD thereto in the disputed domain name is insufficient to avoid a finding that it is confusingly similar to the Complainant's trademarks. Thus, the Complainant has satisfied Paragraph 4(a)(i) of the Policy.

2. Rights or Legitimate Interests

The Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name under Policy paragraph 4(a)(ii). Should it succeed in that effort, the burden then shifts to the Respondent to show that it does have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, UDRP-102378, (CAC March 8, 2019) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

Paragraph 4(a)(ii) of the Policy directs an examination of the facts to determine whether a respondent has rights or legitimate interest in a domain name. Paragraph 4(c) lists a number of ways in which a respondent may demonstrate that it does have such rights or interests.

The first example, under Paragraph 4(c)(i), is where "before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services". Past decisions under the Policy have held that use of a domain name that is confusingly similar to a well-known trademark and that hosts a monetized pay-per-click page is not a bona fide offering of goods or services. See, e.g., Loro Piana S.p.A. v. Y. v. Oostendorp, UDRP-101335 (CAC March 26, 2018) (use of a disputed domain name that copies the complainant's trademark to resolve to a pay-per-click website "cannot be considered a bona fide offering of goods or services...."). Here, the Complainant submits a screenshot showing that the disputed domain name resolves to a parking page that contains pay-per-click links that have no relation to the Complainant's line of business. As the disputed domain name is identical to the asserted RATP HABITAT trademark and as the trademark has developed a strong reputation, as demonstrated by the duration and scope of its activities, evidence of which has been provided by the Complainant in the form of screenshots from the Complainant's website describing the history of the company, its geographic range, the number of its employees, and the number of housing units it has built and operates), the Panel concludes that the Respondent is using the disputed domain name to seek click revenue through those diverted Internet users who are trying to reach the Complainant but, due to the confusing similarity of the disputed domain name with the Complainant's trademark, end up at the Respondent's website instead.

The second example, under Paragraph 4(c)(ii), is a scenario in which a respondent is commonly known by the domain name. In considering this issue, relevant information can include the WHOIS record and any other assertions by a complainant regarding the nature of its relationship with a respondent. See LABORATOIRE NUXE v. Domains For Sale, UDRP-106079 (CAC January 25, 2024) ("Past panels have held that a respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name."). See also Z&V v. Mecara Untech (Mecara Untech), UDRP-106222 (CAC February 27, 2024) (no rights or legitimate interests found where "[n]either license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark."). The WHOIS record for the disputed domain name, as verified by the concerned Registrar, identifies the registrant's name as "Nassim Bezzou" which bears no resemblance to the characters or text that make up the disputed domain name. The Complainant further asserts that "[n]either license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark RATP HABITAT, or apply for registration of the disputed domain name.". The Respondent has not participated in this case and so it does not offer any information or evidence to argue against the

Complainant's assertions. Accordingly, the Panel finds no ground upon which to conclude that the Respondent is commonly known by the disputed domain name under Policy paragraph 4(c)(ii).

As to the third example, under paragraph 4(c)(iii) of the Policy, there is no evidence that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the RATP HABITAT trademark. As the disputed domain name resolves to a classic pay-per-click website, this does not rebut the assertion that its use is not fair as the Respondent's activity does not fit into any accepted category of fair use such as news reporting, commentary, political speech, education, nominative or generic use, etc.

In light of the above analysis, and with no Response or other submission in this case to rebut the Complainant's assertions, this Panel finds that the facts of this case do not demonstrate that the Respondent has any rights or legitimate interest in the disputed domain name under paragraph 4(a)(ii) of the Policy.

3. Bad Faith Registration and Use

Finally, the Complainant must prove, by a preponderance of the evidence, that the disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) of the Policy. Hallmark Licensing, LLC v. EWebMall, Inc., Case No. D2015-2202 (WIPO, February 12, 2016) ("The standard of proof under the Policy is often expressed as the 'balance of the probabilities' or 'preponderance of the evidence' standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true.").

The Complainant first asserts that the Respondent was aware of and targeted the RATP HABITAT trademark at the time it registered the disputed domain name. Actual knowledge of a complainant's trademark may form the foundation upon which to build a case for bad faith under Policy paragraph 4(a)(iii). See, Intesa Sanpaolo S.p.A. v. Ciro Lota, UDRP-106302 (CAC April 4, 2024) ("Given the distinctiveness and reputation of the Complainant's prior marks, it is inconceivable that the Respondent could have registered the disputed domain name for a mere chance without actual knowledge of the Complainant's rights in such well-known marks and the intention to exploit such reputation by diverting traffic away from the Complainant's website."). As noted above, the RATP HABITAT trademark has developed a strong reputation. Further, the identity between the disputed domain name and the Complainant's rather unique trademark, combined with the fact that the Complainant operates its own website at the domain name <ratphabitat.com> are significant evidence of the Respondent's prior awareness and targeting of the Complainant. As such, the Panel concludes that it is more likely than not that the disputed domain name was registered with actual knowledge of the Complainant's trademark rights.

Next, the Complaint asserts that the disputed domain name is being used for a pay-per-click website to divert users to other websites based upon confusion with its trademarks and it also notes the existence of a Mail Exchange (MX) record associated with the domain name. Such activity has been held to demonstrate bad faith use of a domain name that is confusingly similar to a complainant's trademark. AMUNDI ASSET MANAGEMENT v. Carolina Rodrigues (Fundacion Comercio Electronico), UDRP-106360 (CAC April 15, 2024) (bad faith found where it is shown "(a) that the disputed domain is confusingly similar to the Complainant's well-known trademark; (b) that the Respondent must have had actual knowledge of the Complainant's rights in its trademarks; (c) that the disputed domain name resolves to a registrar parking page with commercial links, thus attempting to attract Internet users to his website for commercial gain; and (d) that the disputed domain name was set up with MX records which suggests that it may be actively used for e-mail purposes."). See also, Focus Do It All Group v. Athanasios Sermbizis, D2000-0923 (WIPO October 12, 2000) (the Panel found that "[I]t is enough that commercial gain is being sought for someone" for a use to be commercial."). The Complainant notes that the disputed domain name is identical to its unique and reputed trademark, that the pay-per-click website is seeking commercial gain based on confusion with the trademark, and that the existence of MX records indicates that the Respondent may be engaging in e-mail activities. Based on the foregoing arguments and a preponderance of the submitted evidence, the Panel finds that the disputed domain name is being used to seek commercial gain based on a likelihood of confusion with the Complainant's trademark under paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ratphabitat.xyz**: Transferred

PANELLISTS

Name	**Steven Levy**

DATE OF PANEL DECISION 2025-06-05

Publish the Decision