

Decision for dispute CAC-UDRP-103427

| | |
|-------------|------------------------|
| Case number | CAC-UDRP-103427 |
|-------------|------------------------|

| | |
|----------------|----------------------------|
| Time of filing | 2020-11-25 10:13:31 |
|----------------|----------------------------|

| | |
|--------------|--------------------------|
| Domain names | canalplusmart.com |
|--------------|--------------------------|

Case administrator

| | |
|--------------|--|
| Organization | Denisa Bilík (CAC) (Case admin) |
|--------------|--|

Complainant

| | |
|--------------|-----------------------|
| Organization | GROUPE CANAL + |
|--------------|-----------------------|

Complainant representative

| | |
|--------------|--------------------------------------|
| Organization | Nameshield (Enora Millocheau) |
|--------------|--------------------------------------|

Respondent

| | |
|------|------------------------------|
| Name | Darlyn Romero Vazquez |
|------|------------------------------|

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

Various registered trade marks that comprise the words "CANAL PLUS", including:

- The French trademark CANAL PLUS No. 1218827, registered on 5 November 1982; and
- The International trademark CANAL PLUS n° 509729, registered since 16 March 1987; and
- The International trademark CANAL PLUS n° 619540, registered since 5 May 1994.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

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. With 20 million of subscribers worldwide, the Complainant offers various channels available on all distribution networks and all connected screens.

In addition to various trade marks the Complainant owns multiple domain names consisting in the wording "CANAL PLUS" such as <canalplus.com> registered since 20 May 2006 and <canal-plus.com> registered since 28 March 1996.

The disputed domain name <canalplusmart.com> (the "Domain Name") was registered on 26 February 2019 and points to a parking page with commercial links related to the Complainant's activities.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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 Complaint has various registered trade marks in the term "CANAL PLUS". That term is clear recognisable in the Domain Name. Indeed, the most sensible reading of the Domain Name is that term combined with the word "mart" (which appears to be used in the sense of market place) and the ".com" top level domain. The fact that the Complainant's trade mark is recognisable in the Domain Name is sufficient for a finding of confusing similarity for the purposes of paragraph 4(a)(i) of the Policy. In this respect see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "WIPO Overview 3.0"). The Complainant has, therefore, made out the requirements of 4(a)(i) of the Policy.

The Panel is satisfied that the use made of the Domain Name since registration demonstrates that it is most likely that the Respondent was aware of the Complainant's business and marks at the time the Domain Name was registered, and that the Domain Name was registered and has been used for the purpose of displaying pay-per-click links that take advantage of the reputation of the Complainant's marks. Such use falls within the scope of paragraph 4(b)(iv) of the Policy. Further, and in any event, the nature of the Domain Name is such that it is clearly intended to make reference to the Complainant's business and marks and it is difficult to conceive of a use of the Domain Name that would be legitimate. In this respect, the Panel is of the view that the similarity of the Domain Name to the Claimant's marks is so great that the Domain Name inherently involves an impermissible impersonation of the Complainant. In this respect see sections 2.5.1 and 2.8.2 of the WIPO Overview 3.0.

It follows that the Panel finds that the Respondent has no right or legitimate interest in the Domain Name and that the Domain Name was registered and has been used in bad faith. Accordingly, the Complainant has made out the requirements of paragraphs 4(a)(ii) and 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CANALPLUSMART.COM:** Transferred

PANELLISTS

| | |
|------|----------------|
| Name | Matthew Harris |
|------|----------------|

| | |
|------------------------|------------|
| DATE OF PANEL DECISION | 2020-12-18 |
|------------------------|------------|

| | |
|----------------------|--|
| Publish the Decision | |
|----------------------|--|
