

Decision for dispute CAC-UDRP-105055

Case number	CAC-UDRP-105055
Time of filing	2022-12-14 09:48:38
Domain names	laplateformedubatiment.info, laplateformedubatiment.online, laplateformedubatiment.pro, laplateformedubatiment.shop

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	LA PLATEFORME
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	patcheko etconsors
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks LA PLATEFORME DU BATIMENT, including:

French trademark n°96623089 registered on April 26, 1996;

International trademark n°755073 registered on January 4, 2001;

French trademark n°4777167 registered on June 16, 2021; and

International trademark n°1647134 registered on December 16, 2021.

FACTUAL BACKGROUND

The Complainant is a construction materials distribution network exclusively reserved for building professionals since 1995. The Complainant is the owner of several trademarks LA PLATEFORME DU BATIMENT, including:

French trademark n°96623089 registered on April 26, 1996;

International trademark n°755073 registered on January 4, 2001;

French trademark n°4777167 registered on June 16, 2021; and

International trademark n°1647134 registered on December 16, 2021.

The Complainant also owns the domain name <laplateformedubatiment.com>, registered since August 24, 2003.

The disputed domain names were registered on November 23, 2022 and redirect to the Registrar's parking page with commercial links.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

Complainant's contentions

The Complainant contends that the disputed domain names are identical to its LA PLATEFORME DU BATIMENT mark and the Respondent has no rights or legitimate interests in respect of the domain names. The Respondent is not commonly known by any of the domain names and he is not related in any way to the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither licence nor authorization has been granted by the Complainant to the Respondent to make any use of the Complainant's trademark, nor to apply for registration of the disputed domain names. Furthermore, the Respondent is not using the disputed domain names in connection with a bona fide offering of goods or services, nor a legitimate non-commercial or fair use. The Respondent uses the disputed domain names for a parking page with third party pay-per-click links that divert traffic to third-party websites not affiliated with the Complainant.

The disputed domain names were registered and are being used in bad faith. The term "LA PLATEFORME DU BATIMENT" is known only in relation to the Complainant. Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainant's trademark. They each redirect to a parking page with pay-per-click commercial links. Such usage is disruptive to the Complainant's business and demonstrates that the Respondent is attempting to attract internet users for commercial gain by trading off the Complainant's trademark. This shows the Respondent's bad faith under Policy 4(b)(iii) and (iv).

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are identical 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 names (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 names have been registered and are 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

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that the Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (3) the disputed domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at paragraph 4.3; see also *eGalaxy Multimedia Inc. v. ON HOLD By Owner Ready To Expire*, FA 157287 (Forum June 26, 2003) ("Because Complainant did not produce clear evidence to support its subjective allegations [...] the Panel finds it appropriate to dismiss the Complaint").

As to the first element, the Complainant has shown that, through several registrations, it has rights in the trademark LA PLATEFORME DU BATIMENT, including:

French trademark n°96623089 registered on April 26, 2006;

International trademark n°755073 registered on January 4, 2001;

French trademark n°4777167 registered on June 16, 2021; and

International trademark n°1647134 registered on December 16, 2021.

The Panel finds each of the <laplateformedubatiment.info>, <laplateformedubatiment.online>, <laplateformedubatiment.pro> and <laplateformedubatiment.shop> domain names to be identical to the Complainant's LA PLATEFORME DU BATIMENT trademark, since each consists of the mark in its entirety, merely omitting the spaces, together with an inconsequential gTLD, which may be ignored.

As to the second element, paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in the disputed domain names for purposes of paragraph 4(a)(ii) of the Policy, *i.e.*

- (i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the domain names or names corresponding to the domain names in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the domain names, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the domain names, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The disputed domain names were registered on November 23, 2022, many years after the Complainant first registered its LA PLATEFORME DU BATIMENT mark. They resolve to the Registrar's parking page with commercial links.

These circumstances, together with the Complainant's assertions, are sufficient to constitute a *prima facie* showing of absence of rights or legitimate interests in respect of the <laplateformedubatiment.info>, <laplateformedubatiment.online>, <laplateformedubatiment.pro> and <laplateformedubatiment.shop> domain names on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain names. See *Neal & Massey Holdings Limited v. Gregory Ricks*, FA 1549327 (Forum Apr. 12, 2014). The Respondent has made no attempt to do so.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

As to the third element, paragraph 4(b) of the Policy sets out four illustrative circumstances, which, though not exclusive, shall be evidence of the registration and use of the disputed domain names in bad faith for purposes of paragraph 4(a)(iii) of the Policy, including:

- by using the domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on its website or location.

The circumstances set out above in relation to the second element satisfy the Panel that the Respondent was fully aware of the Complainant's LA PLATEFORME DU BATIMENT mark when the Respondent registered the disputed domain names and that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source of the Respondent's website and of the goods promoted on that website. This demonstrates registration and use in bad faith to attract users for commercial gain under Policy 4(b)(iv).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **laplateformedubatiment.info**: Transferred
- 2. **laplateformedubatiment.online**: Transferred
- 3. **laplateformedubatiment.pro**: Transferred
- 4. **laplateformedubatiment.shop**: Transferred

PANELLISTS

Name	Alan Limbury
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DATE OF PANEL DECISION 2023-01-09

Publish the Decision