

## **ADMINISTRATIVE PANEL DECISION**

Nasco France v. ray john and gyeaki mune  
Case No. D2022-0092

### **1. The Parties**

The Complainant is Nasco France, France, represented by Dreyfus & associés, France.

The Respondents are ray john, United States of America (“United States”), and gyeaki mune, United States.

### **2. The Domain Names and Registrar**

The disputed domain names <nasco-france.com>, <nascofrances.com>, and <nascofranse.com> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 12, 2022. On January 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 13, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondents are listed as the registrants and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondents’ default on February 16, 2022.

The Center appointed David Stone as the sole panelist in this matter on February 28, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

The Complainant is a reinsurance broker in France, the Middle East, and North Africa. It also operates as a direct insurance broker to individuals and corporations seeking insurance cover and asset protection. It is a member of the Nasco Insurance Group.

The Complainant owns the following trade marks (the "Marks"):

- NASCO: French registration number 4227289, registered on March 11, 2016 in International Class 36; and
- NASCO: International registration number 1303286, registered on January 19, 2016 in International Class 36.

In addition, the Complainant uses the following official domain name to promote its services:

- <nascofrance.com>, registered on December 29, 2010.

The disputed domain names were registered on the following dates:

- <nasco-france.com> (the "france" domain name): May 31, 2021.
- <nascofrances.com> (the "frances" domain name): August 26, 2021.
- <nascofranse.com> (the "franse" domain name): September 18, 2021.

On December 15, 2021 the Complainant (i) sent the Registrar a request to block the disputed domain names; (ii) the apparent host of the email servers associated with the "frances" domain name and the "franse" domain name, a request to deactivate those email servers; and (iii) sent the provider of the domain name servers for the "frances" domain name and the "franse" domain name, a request to block the corresponding user accounts. The concerned host and provider complied with the requests made of them.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the Marks and almost identical to the corporate name Nasco France. Each disputed domain name incorporates the Marks and differs only slightly from the Complainant's official domain name. The "franse" domain differs only by the replacement of a "c" with an "s", which is a case of typosquatting. The "frances" domain differs only by the addition of a letter "s", which does not reduce the likelihood of confusion. The "france" domain name is nearly identical to both the official domain name and the corporate name. All three disputed domain names contain the text of the Marks in its entirety, and the addition of a descriptive or geographical term, here "france", which does not prevent a finding of confusing similarity. Nor does the generic Top-Level Domain ("gTLD") ".com".

The Complainant contends that the Respondents have no rights or legitimate interests in respect of the disputed domain names. The Respondents are not affiliated with the Complainant and are not authorised or licensed to use the Marks. The Marks and the Complainant's official domain name were registered years before the disputed domain names were, and so the Respondents have no prior right or legitimate interests. The near-identity between the disputed domain names and the Complainant's official domain name, and the confusing similarity between the disputed domain names and the Marks, indicates that the Respondents cannot pretend to have intended to put the disputed domain names to a legitimate purpose. In fact, the "franse" and "frances" domain names have been used to impersonate employees of the Claimant and

commit fraud by phishing. The Respondents cannot assert, therefore, that, before any notice of this dispute, they were using or had made preparations to use these two disputed domain names in connection with a *bona fide* offering of goods or services.

The Complainant contends that the Respondents registered and used the disputed domain names in bad faith. The confusing similarity or near-identity between the disputed domain names, the Marks, and the Complainant's official domain name makes it clear that the Respondents were aware of the Complainant and the Marks, and that they registered the disputed domain names to target the Complainant. The use of the "franse" and "frances" domain names for phishing demonstrates this. Also with respect to these two disputed domain names, typosquatting is itself evidence of registration in bad faith. Finally, phishing and typosquatting are both evidence of bad-faith use of the disputed domain names.

## **B. Respondents**

The Respondents did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets out the three requirements that the Complainant must prove in order to succeed:

- (i) that the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

### **6.1 Consolidation of Multiple Respondents**

In reliance on paragraph 10(e) of the Rules, the Complainant requested consolidation of the Respondents on the basis that, for the following reasons, the disputed domain names are likely to be under common control:

- The disputed domain names were registered through the same reseller of the Registrar.
- Identical domain name servers are set up.
- The disputed domain names are very close variants of the Complainant's official domain name, <nascofrance.com>.
- The disputed domain names were registered within a few months of one another, between May 2021 and September 2021.

Paragraph 10(e) of the Rules states that "[a] Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules". Paragraph 4(f) of the Policy states that a panel may consolidate multiple disputes between the same respondent and the same complainant at its sole discretion. In practice, the decision to consolidate complaints against multiple respondents is made by considering whether (i) the domain names in dispute are under common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. (See the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), 4.11.2).

In this case the Panel grants the Complainant's request. Similarities in domain name servers and naming patterns in the disputed domain names are indicators of common control, and here the domain name servers are identical and the disputed domain names all are combinations of "nasco" and "france", or a close variant. The Panel also notes that both Respondents are located in the United States and finds it likely that the Respondents' details are fictitious (in particular, the details associated with the "france" domain name include an email address composed of a personal name different than the named Respondent and a phone number associated with a different location than the physical address of the Respondent). The Respondents had the opportunity to object to consolidation, but did not do so. Absent that objection, and in light of the *prima facie* evidence of common control, it would be unfair to require the Complainant to file, and fund, multiple complaints. Consolidation would also be procedurally efficient in these circumstances.

#### **A. Identical or Confusingly Similar**

On the evidence provided by the Complainant, the Panel is satisfied that the Complainant has rights in the Marks. In assessing the confusing similarity between the disputed domain names and the Marks it is permissible to ignore the gTLD ".com". The disputed domain names then differ from the Marks only by the addition of a term, *i.e.* "-france", "frances", or "franse".

A domain name will normally be considered confusingly similar to a mark when the mark is recognizable in the domain name, regardless of other terms in the domain name (see [WIPO Overview 3.0](#), section 1.8).

The Panel finds that the disputed domain names are confusingly similar to the Marks, and concludes that the condition in paragraph 4(a)(i) of the Policy is satisfied with respect to all the disputed domain names.

#### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy sets out the criteria that determine whether a domain name registrant has rights or legitimate interests in a domain name:

(i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent (as an individual, business or other organisation) has been commonly known by the disputed domain name, even if the respondent has acquired no trade mark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain misleadingly to divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant makes out a *prima facie* case that the Respondents have no rights or legitimate interests in the disputed domain names, and the Respondents have provided no evidence to contradict it.

On the facts and contentions before the Panel, the Respondents are not commonly known by any of the disputed domain names, are not authorised to use the Marks and cannot claim any right or interest in them by virtue of prior registration.

The Complainant has provided evidence that, starting in August 2021, the "franse" and "frances" domain names have been used in a sophisticated man-in-the-middle phishing attack on the Complainant and one of its clients. Needless to say, this is neither use in connection with a *bona fide* offering of goods or services, nor legitimate noncommercial or fair use of the "franse" and "frances" domain names: previous UDRP panels have held categorically that the use of a domain name for illegal activity, including the impersonation of the complainant, phishing, and other types of fraud, can never confer rights or legitimate interests on a respondent (see *American Machinery Works Inc. v. Registration Private, Domains by Proxy LLC / Name Redacted*, WIPO Case No. [D2021-3006](#)).

The “france” domain does not resolve to a website. Such passive holding by the Respondents does not preclude the existence of rights or legitimate interests. However, the “france” domain differs from the Complainant’s official domain name by only a hyphen, and the Respondents have not put forward any evidence of their rights or interests. The Panel therefore finds it implausible that the Respondents could be planning either to use the “france” domain in connection with a *bona fide* offering of goods or services, or to put it to any legitimate noncommercial or fair use.

The condition in paragraph 4(a)(ii) of the Policy is therefore satisfied with respect to all the disputed domain names.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy sets out the non-exhaustive criteria for bad faith. Generally, for the purposes of the Policy, bad faith constitutes registration and use of a domain name in order to:

- (i) sell, rent, or transfer the domain name to the trade mark owner (or a competitor thereof) for a profit;
- (ii) prevent the trade mark owner from registering its trade mark in a domain name, provided that the respondent is engaged in a pattern of such conduct;
- (iii) disrupt the business of a competitor; or
- (iv) divert Internet traffic for commercial gain.

The use of the “franse” and “frances” domain names for phishing is evidence that the Respondents were aware of the Complainant and its business. Registration of the “franse” and “frances” domain names with the intent to make the Complainant the target of a phishing attack is clearly registration in bad faith. The Respondents have not put forward any other reason for their registration of these domain names. Furthermore, the Respondents’ use of the “franse” and “frances” domain names for phishing is manifestly use in bad faith (see the [WIPO Overview 3.0](#), section 3.4).

Passive holding, as of the “france” domain, does not necessarily constitute registration or use in bad faith. However, given the near-identity between the “france” domain and the Complainant’s official domain name, and the absence of any evidence from the Respondents of their rights or interests in the “france” domain, why they registered the “france” domain, and how they intended to use the “france” domain, the Panel concludes that, in this case also, both registration and use are in bad faith.

The condition in Paragraph 4(a)(iii) of the Policy is therefore satisfied with respect to all the disputed domain names.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names, <nasco-france.com>, <nascofrances.com>, and <nascofranse.com>, be transferred to the Complainant.

*/David Stone/*

**David Stone**

Sole Panelist

Date: March 14, 2022