

ADMINISTRATIVE PANEL DECISION

**B.S.A. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues,
Fundacion Comercio Electronico
Case No. D2022-1730**

1. The Parties

Complainant is B.S.A., France, represented by Inlex IP Expertise, France.

Respondent is Registration Private, Domains By Proxy, LLC, United States of America / Carolina Rodrigues, Fundacion Comercio Electronico, Panama (collectively, "Respondent").

2. The Domain Name and Registrar

The disputed domain name <presidentchesse.com> (the "Domain Name") is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 12, 2022. On May 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 16, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on May 20, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on May 24, 2022.

The Center verified that the Complaint together with the amended 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 Respondent of the Complaint, and the proceedings commenced on June 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on July 8, 2022.

The Center appointed Harrie R. Samaras as the sole panelist in this matter on July 18, 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

Complainant is a French company, B.S.A, a subsidiary of the Lactalis group, created in 1933. It owns the following registrations for the PRESIDENT or PRÉSIDANT marks (hereinafter, the “PRESIDENT Mark”), such as: International Trademark Reg. Nos. 595547 and 1523674, registered on December 7, 1992 and February 10, 2020, respectively. The Mark is used worldwide. Complainant also holds numerous domain names using the PRESIDENT Mark including <presidentcheese.com.cn> registered on August 31, 2014.

The Domain Name <presidentcheese.com> was registered on January 4, 2022. The Domain Name at some point redirected to a page marked as malicious by the search engine.

5. Parties' Contentions

A. Complainant

The Domain Name contains Complainant's PRESIDENT Mark with the term “chesse”, similar to the term “cheese”, which represents the products that Complainant sells under the PRESIDENT Mark. Also, the Domain Name is quasi-identical (one letter differs) to Complainant's domain name <presidentcheese.com.cn>. The Top-Level Domain suffix “.com” should not be taken into account as they are compulsory elements of a domain name. Thus, the Domain Name is identical or confusingly similar to the PRESIDENT Mark.

Respondent is not commonly known by the PRESIDENT Mark and does not appear to use the Mark as a business name. Complainant has not authorized, licensed, or permitted Respondent to use any of its trademarks or to apply for or use any domain name incorporating those trademarks. Moreover, there is no business relationship existing between Complainant and Respondent. The Domain Name was registered on January 4, 2022, and redirected to a page marked as malicious by the search engine so that it is a proven case of cybersquatting and shows that Respondent has no rights or legitimate interests in the Domain Name. The Domain Name is neither used in connection with a *bona fide* offering of goods or/and services nor does it constitute a legitimate noncommercial fair use whereas Complainant enjoys an international reputation with its PRESIDENT Mark, as it has been using the PRESIDENT Mark for many years, especially in the dairy industry. Therefore, there is the risk of implicit affiliation with Complainant. A previous panel concluded this in a previous decision regarding another trademark of the Lactalis group. See *Groupe Lactalis v. Domain Privacy Service FBO Registrant, Zhang Cameron, Contact Privacy Inc. Customer 1249314777 / CEO Desk*, WIPO Case No. [D2021-1410](#) (involving <nzlactals.com> and <nzlactalis.com>). Also, in another case Respondent, Carolina Rodrigues, registered other domain names, namely, <serenaandlily.com>, <serenaandlily.com>, and <serenaandlily.com>, and the panel found that Respondent registered them in bad faith and ordered them to be transferred to the complainant in that case. See *Serena & Lily, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-0568](#).

The Domain Name was registered in bad faith because Complainant is a French multinational company who has operated in the agri-food industry, mainly active in the dairy product sector, and enjoys a strong worldwide reputation. It was established in 1933 and is now one of the world's leading producers of dairy products. There are 250 production sites in 50 countries with more than 80,000 employees in 94 countries and a turnover of 20 billion euros. Complainant has widely used its PRESIDENT Mark since at least 1968 to promote dairy products (cream, cheese and butter) and has therefore built up a substantial reputation. Products bearing the PRESIDENT trademark are available in more than 150 countries around the world.

Lactalis group has expended extensive time, effort, and resources to cultivate great notoriety through advertising, promotional media as well as websites, around the world and notably within the European Union. As a result, the PRESIDENT Mark has become a valuable asset of Lactalis and represents significant goodwill. Thus, it seems unlikely that Respondent could have been unaware of Complainant's activity and business, and the existence of the PRESIDENT Mark when registering the Domain Name. Also, the Domain Name incorporates Complainant's distinctive PRESIDENT Mark identically. There is no reasonable explanation for choosing the PRESIDENT Mark that is distinctive for dairy products. Lastly, using a privacy service made it difficult for Complainant to enforce its Mark and to try to find an amicable settlement in this matter.

Respondent is using the Domain Name in bad faith because it is not making any legitimate or fair use of the Domain Name insofar as the Domain Name redirects the public to a fraudulent page without any real and substantial offer of goods or services. Also, the Domain Name disrupts Complainant's business and causes harm to its brand image. Because the Domain Name is identical or confusingly similar to the Mark, Internet users and especially Complainant's customers may wrongly believe that the website to which it resolves is Complainant's site or that Complainant's website is not correctly functioning or has been hacked. This perception will obviously be very harmful to Complainant's image. This creates a risk that Respondent may be engaged in a phishing scheme aimed at deceiving Internet users and making them believe that they are in sync with Complainant regarding its online activities. Furthermore, the fact that the Domain Name is very similar to Complainant's domain name <presidentcheese.com.cn> with only one letter difference, leaves no doubt that Respondent is attempting to typosquat. This method undoubtedly leads to a significant number of visitors without doing any promotion and affects the risk of losing consumers for Complainant.

As can be seen from the record, the Domain Name has mail servers configured so that emails can be sent from the Domain Name. So, for example emails can be sent to customers, suppliers, etc., from the Domain Name, posing as Complainant since the Domain Name reproduces the entire PRESIDENT trademark, associated with term "chesse" confusingly similar to the term "cheese". Such emails can be used for phishing purposes, such as to obtain contact information of Internet users or the payment of invoices for example, which can constitute a prejudice to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is uncontroverted that Complainant has established rights in the PRESIDENT Mark based on long-standing use as well as the aforementioned trademark registrations for it.

Furthermore, the Domain Name <presidentchesse.com> is confusingly similar to the PRESIDENT Mark because it incorporates that Mark in its entirety and adds the descriptive term "chesse", a slight (one-letter) misspelling of the word "cheese", which does not prevent a finding of confusingly similarity. In this case, combining Complainant's PRESIDENT Mark with the term "cheese" – albeit misspelled – that describes a product of Complainant's core business for many years, supports the Panel's findings under the third element. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is well settled that the addition of the generic Top-Level Domain, here ".com", is not significant in determining whether a domain name is identical or confusingly similar to a trademark. See *CBS Broadcasting Inc. v. Worldwide Webs, Inc.*, WIPO Case No. [D2000-0834](#).

For the foregoing reasons, the Panel finds that paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

It is uncontroverted that Respondent is not a licensee or authorized agent of Complainant or in any other way authorized to use the PRESIDENT Mark. Similarly, the Parties are not in any business relationship. Also, Complainant is not in possession of, nor aware of the existence of, any evidence demonstrating that Respondent, whose name is Carolina Rodrigues according to the Whois records, might be commonly known by a name corresponding to the Domain Name as an individual, business, or other organization.

Currently, there is no evidence that Respondent has used the Domain Name for any purpose but to resolve to a webpage marked as malicious by the search engine. Nevertheless, there are other relevant factors the Panel has considered regarding this element: (1) Complainant and the PRESIDENT Mark have well-established international reputations in the dairy industry; (2) Respondent has appended the misspelled word “chesse” to a well-known mark thereby suggesting a connection with Complainant; (3) Respondent has failed to explain why it registered the Domain Name; (4) the Domain Name <presidentchesse.com> is very similar to Complainant’s domain name <presidentcheese.com.cn> with only one letter difference; and (5) the Domain Name has mail servers configured so that emails can be sent from the Domain Name to customers and vendors posing as Complainant, including using them for phishing. These factors allow the Panel to infer that Respondent has no rights or legitimate interests in the Domain Name, having registered a Domain Name that includes a typo in a likely attempt of creating confusion with Complainant.

Where, as here, Complainant has raised a *prima facie* presumption of Respondent’s lack of any rights or legitimate interests in the Domain Name, and Respondent has failed to rebut that presumption, the Panel is satisfied that Complainant has carried its burden of proving that Respondent has no rights or legitimate interests in the Domain Name within the meaning of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

It is undisputed that Complainant has widely used its PRESIDENT Mark for decades to promote dairy products (e.g., cream, cheese and butter) and products bearing the PRESIDENT Mark are available in more than 150 countries around the world. At the time Respondent registered the Domain Name in January 2022, Complainant had been using the PRESIDENT Mark for decades worldwide. Given Complainant’s widespread and long-standing use of the Mark, the Panel finds it is highly unlikely Respondent was unaware of it when registering the Domain Name. Respondent’s bad faith registration is also evidenced by the facts that: (1) Respondent has not shown that she has any rights or legitimate interests in the Domain Name; (2) Respondent registered a Domain Name that is exactly the same as Complainant’s registered PRESIDENT Mark adding a misspelling of the word “cheese” which is one of the products that Complainant sells; and (3) the Domain Name is a close approximation of one of Complainant’s domain name <presidentcheese.com.cn> registered on August 31, 2014.

Respondent has also been using the Domain Name in bad faith. “Parking” a domain name, as Respondent did here, can constitute bad faith use. See, e.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) (holding that “passive holding” of the domain name could constitute use of the domain name in bad faith). The Panel has already found that Respondent incorporated in the Domain Name Complainant’s registered PRESIDENT Mark (which Complainant has used internationally for many years) for which Respondent lacks any rights or legitimate interests. Respondent has parked the Domain Name without using it and without submitting any evidence of any good faith use of or intention to use it. Furthermore, in some occasions, the Domain Name has resolved to websites marked as malicious, and Complainant alleges, without contradiction from Respondent, that the Domain Name has mail servers configured so that emails can be sent from an address connected to the Domain Name to customers and vendors posing as Complainant, including using them for phishing. In use, the Domain Name will inevitably lead to confusion or disruption of Complainant’s business, for example. In light of Complainant’s long-standing registration and use of the PRESIDENT Mark, “it is not possible to conceive of a plausible circumstance in which the Respondent could legitimately use the domain name”. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Panel therefore holds that Complainant has established paragraph 4(a)(iii) of the Policy.

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 Domain Name <presidentchesse.com> be transferred to Complainant.

/Harrie R. Samaras/

Harrie R. Samaras

Sole Panelist

Date: July 28, 2022