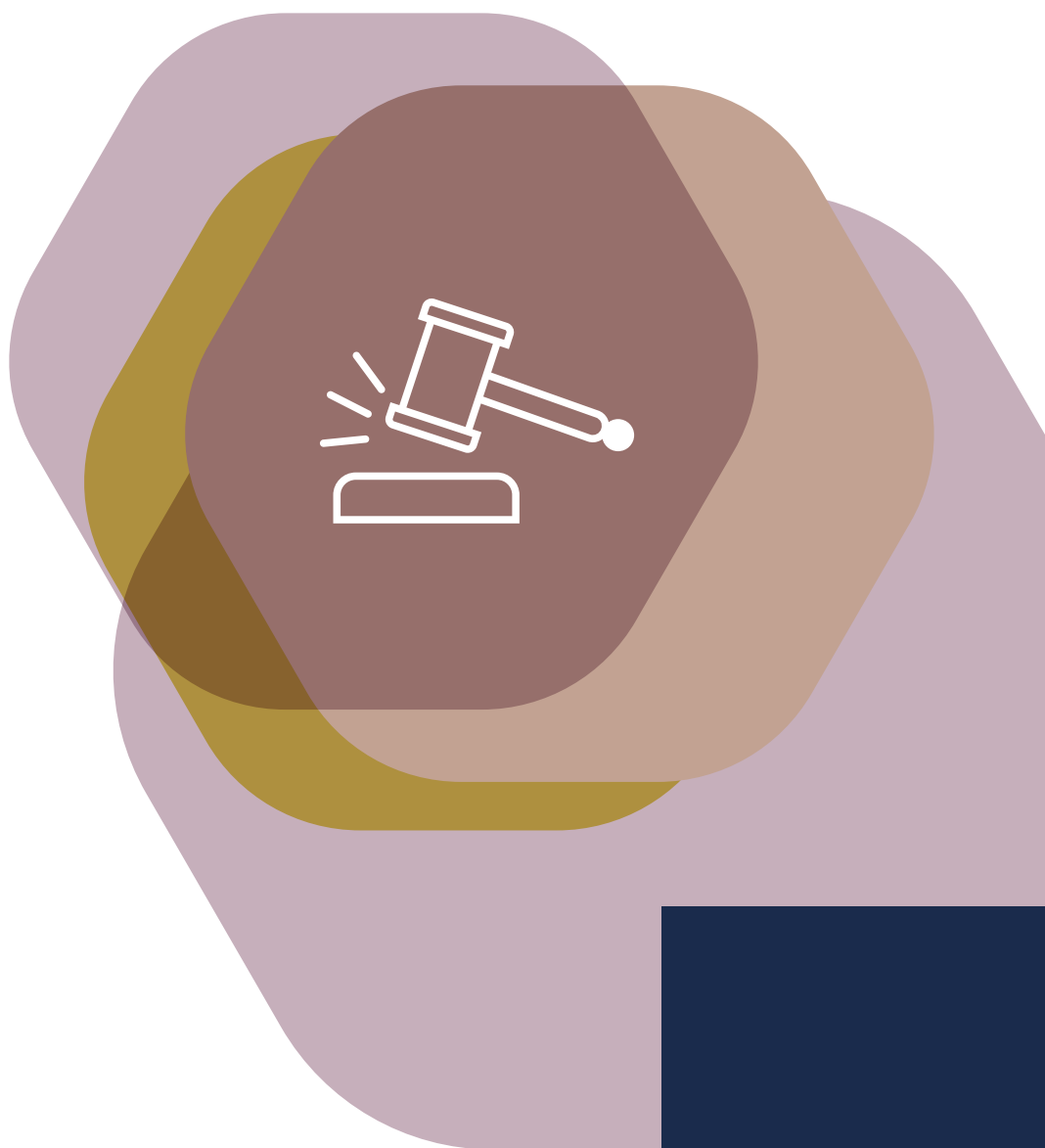


# PARL



## ADR trends

Afnic Alternative Dispute Resolution procedures



October 2021 edition

**ADR trends are evolving!**

Afnic, with the collaboration of the WIPO, brings you two items of news on page 5: one relating to an innovative ruling handed down under the Syreli procedure and, for the first time, a news item on a ruling handed down under the Expert ADR procedure.

And discover the new Syreli and Expert ADR decisions that have been handed down on each of the items addressed in this review.

Lastly, to round out your knowledge, Afnic invites you to consult its [practical guides](#) on its website.

Enjoy reading!

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Some figures\*

Syrelis

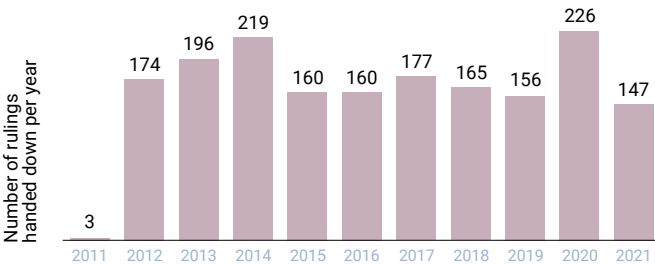
1,783 rulings handed down

**62%**  
favourable  
rulings

90% transfer  
rulings  
and 10% deletion  
rulings

**38%**  
unfavourable  
rulings

of which 94% transfer  
requests  
and 6% deletion  
requests



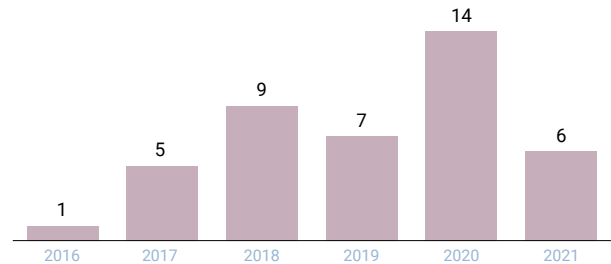
PARL Expert

42 rulings handed down

**86%**  
favourable  
rulings

94% transfer  
rulings  
and 6% deletion  
rulings

**14%**  
unfavourable  
rulings



Rates of transfer or deletion of domain names following an ADR ruling

Since November 2011, the Syrelis College has handed down 1,783 rulings. For 62% of claims, the College agreed to the measure requested, of which 90% were requests for transfer of a domain name and 10% were requests for deletion of a domain name.

Since 22 March 2016, the Experts have handed down 42 rulings. For 86% of the claims, the College agreed to the measure requested, of which 94% were requests for transfer of a domain name and 6% were requests for deletion of a domain name.

Specifically: all Expert ADR claims to date have been based solely on Article L.45-2 paragraph 2 of the CPCE; whereas all grounds of Article L.45-2 of the CPCE have already been used under the Syrelis procedure.

\* The Trends are based on data covering the period from the opening of the ADR platforms until June 2021.

## Can one rely on a subsequent right to a domain name to win a case?

In its ruling FR-2021-02272 eat.fr handed down on 25 March 2021, the Syreli College introduced an innovation to its case law on the infringement of intellectual property rights, more specifically in a case where a domain name was registered prior to the rights invoked by the Claimant.

On 28 January 2021, JUST EAT HOLDING LIMITED filed a Syreli appeal requesting the transfer of the domain name eat.fr to its French subsidiary EAT ON LINE.

First of all, the College acknowledged the Claimant's standing in that the domain name in question was similar to the Claimant's name and brands.

As regards the eligibility of the Claimant, a company based in the UK, the ruling served as a reminder that when a Claimant is not eligible for the Naming Policy it can still:

- request the deletion of the domain name;
- or request the transfer of a name to a wholly-owned subsidiary meeting the eligibility conditions of the Naming Policy providing it proves its legal ties to the subsidiary.

In this case, the request for transfer to the French subsidiary EAT ON LINE was admissible. The examination of the case could therefore continue...

It is in the area of infringement of the provisions of Article L.45-2 of the CPCE that the College introduced the innovation.

The disputed domain name eat.fr had been registered on 20 April 2005, before the name of the Claimant, which was incorporated on 28 April 2005 and its brands registered between 2014 and 2016.

Normally, the College would have rejected the Syreli suit at this stage on the grounds that the domain name eat.fr pre-dated the rights invoked by the Claimant.

However, in view of the documents produced by the Claimant, the College was able to establish several factors that determined the continuation of the reasoning and the outcome of the ruling.

## Actu' Syreli

Firstly, a ruling of the WIPO (UDRP) had already determined the bad faith of the same Holder and highlighted its attempt to usurp the place of the Claimant. This ruling had also entailed the transfer of disputed domain names to the Claimant.

Added to this was the evidence as to the content of the website to which the disputed domain name pointed: since its date of registration, 6 March 2018 domain name eat.fr had redirected either to a blank page or to a page advertising the domain name as being for sale.

However, from 18 July 2019, the date on which the domain name eat.fr was renewed, it redirected to a website reproducing not only the graphic charter of the Claimant's websites but also the typeface and the colour of the pictorial elements of JUST EAT.

Lastly, documents showed that the website offered a service that competed with that offered by the Claimant and that the Holder represented itself as forming part of the ALLO RESTO group, which belongs to the Claimant.

The College therefore noted that this restaurant ordering service made direct reference to the Claimant's business and to the services covered by its brands. The Holder's bad faith was thus proven, the more so as it could not be unaware of the existence of the Claimant's rights.

In these special circumstances, the College considered for the first time, relying on Article L.45-2 of the CPCE, that it was indeed the renewal of the domain name eat.fr after 18 July 2019, and not its registration, that was susceptible of infringing the intellectual property rights of the Claimant.

This new development prompts us to remind readers of the importance of the documents produced by the parties when putting together a Syreli dossier. It will perhaps open the way for future Claimants to invoke a subsequent right to a domain name...

## How can the lack of legitimate interest be demonstrated?

In EXPERT ruling 2018-00410 <philipppleints.fr> handed down on 25 October 2018, the Expert allowed jurisprudence to evolve to assess the proof of lack of legitimate interest.

It must first of all be recalled that the burden of proof of the Holder's lack of legitimate interest always lies with the Claimant, and this ruling does not alter that principle. However, since this concerns the proof of a negative, the Expert cannot be too demanding vis-à-vis a Claimant, and when a Claimant alleges that the Holder has no legitimate interest to the domain name with evidence and arguments in support, it is incumbent on the Holder to establish the contrary by demonstrating that he does indeed have a legitimate interest to the domain name, since he alone has the necessary information to be able to do so. If he cannot do so, the Claimant's assertions and evidence can then be considered accurate.

In this case, Philipp Plein had lodged an EXPERT ADR complaint on 4 September 2018, requesting the transfer of the domain name <philipppleints.fr> to him and in the alternative, the deletion of the domain name.

First of all, the Expert had acknowledged the Claimant's standing in that the domain name in question was similar to the Claimant's domain names and brands, as well as to his surname. The Expert had then established that the domain name <philipppleints.fr> was susceptible of infringing the Claimant's intellectual property rights in accordance with Article L.45-2 paragraph 2 of the CPCE and that the domain name <philipppleints.fr> reproduced the Claimant's EU word mark and his surname.

It is in the area of the interpretation of the legitimate interest criterion as regards Article R.20-44-46 of the CPCE that the Expert has brought about a change.

First of all, a reminder that the Expert is required to rule solely in light of the arguments put forward by the Claimant and the documents produced by the parties. In this case the Holder had not submitted a response. To assess the legitimate interest criterion, the Expert used the list of examples in Article R.20-44-46 of the CPCE which establish a legitimate interest that a Holder could invoke, and had studied each element. It must be remembered that this list is non-exhaustive.

Concerning paragraph 1, the Expert established that the use of the domain name to sell items of clothing by reproducing the Claimant's brand did not constitute a legitimate offer of services.

Next, the Expert also established that the name of the Holder, Mrs B., was different from the domain name in dispute, 'philipppeints.fr', so that the Holder could not reasonably be considered as being known under an identical or similar name to the domain name in question. Furthermore, the Holder did not appear to be the owner of any registered trademark of the PHILIPP PLEIN or PHILIPPPEINTS type having effect in France.

Lastly, the disputed domain name reproduced the EU trademark PHILIPP PLEIN and the Claimant's domain name, and was exploited in order to sell products reproducing the Claimant's brand. The use of said disputed domain name was therefore likely to mislead consumers as to the economic origin of the services thus proposed.

The Expert had also noted that the Claimant asserted, and was not contradicted by the Holder in this, that the latter was not a reseller, agent, distributor or licensee of the Claimant and had not been authorised to use the PHILIPP PLEIN brand or to register the disputed domain name 'philipppeints.fr'.

Based on this body of evidence, the Expert concluded that the Holder was making commercial use of the domain name with the intention of misleading consumers and that the Claimant had adduced proof of the Holder's lack of legitimate interest as defined in Article R. 20-44-46 of the CPCE.

Prior to this EXPERT ADR ruling, rulings handed down in favour of Claimants had been based mainly on the Holder's bad faith. As regards the examples listed in Article R. 20-44-46 of the CPCE, the Expert identified the facts and the actions of the Holder that were susceptible of constituting a lack of legitimate interest in this case and was able to conclude in favour of the Claimant on this basis alone.

It is important to note that in numerous cases, the Experts study the criteria of the lack of legitimate interest and the bad faith of the Holder together.

Lastly, this ruling serves as a reminder that when the Claimant puts forward a solid case backed up by pertinent documents, he can win the case on the basis of the Holder's lack of legitimate interest.



## Completeness of the submission

### The Syreli rapporteur or the WIPO ensures that:

1. The request form is duly completed
2. The costs of the procedure are settled
3. The domain name is registered and active (not frozen or blocked)
4. The domain name is not subject to any judicial or extrajudicial procedure.

If a complaint is filed, ensure it relates explicitly to the domain name



If any of these criteria is not met, the Rapporteur or the WIPO will reject the request.



The Rapporteur or the WIPO will not verify the content of the documents filed by the Parties, or their pertinence with regard to the arguments put forward.



### Some reference rulings

#### Judicial or extrajudicial proceedings under way concerning the disputed domain name

FR-2018-01616 golf33.fr  
FR-2018-01579 villagecandle.fr  
FR-2015-01056 parkingmazarine.fr  
FR-2015-00967 ambassadebenin.fr  
FR-2014-00768 atosho.fr

#### Judicial or extrajudicial proceedings under way but not concerning the disputed domain name

FR-2014-00820 syndicat-portage-salarial.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

## Admissibility of the request

### □ Standing to represent the Claimant

The Syreli College or the Expert will consider claims made on behalf of a Claimant by a third party not having standing to represent the Claimant, or not proving such standing, to be inadmissible.

Only lawyers have standing to represent Claimants; they merely have to prove their status as lawyers.

Industrial property lawyers have standing to represent their clients within their area of specialisation.

All other representatives must produce a power of attorney authorising them to act in the name and on behalf of the Claimant, issued by the Claimant's legal representative.

### □ Language of ADR procedures

In accordance with Article (I)(iv) of the Syreli and Expert ADR regulations, "[...] The procedure shall be held in French [...]".



"How to avoid inadmissibility in the Syreli procedure": [read the blog](#)

"BREXIT and .fr domain names": [read the blog](#)

**41** Syreli applications were declared inadmissible due to the lack of standing to represent the Claimant.

No Expert ADR application was concerned by such a case of inadmissibility.



### Some reference rulings

#### On powers of representation

FR-2020-01946 norlog.fr  
 FR-2019-01814 etslemaitre.fr  
 EXPERT-2018-00230 chatroulette.fr  
 FR-2017-01320 chaise-tolix.fr  
 FR-2017-01303 biocoop-souffel.fr  
 EXPERT-2017-00123 bhvshop.fr  
 EXPERT-2017-00102 thqnordic.fr

#### On the language of the procedures

EXPERT-2020-00670 toskani.fr  
 FR-2019-01833 bio4gas.fr  
 FR-2016-01075 corsairmarine.fr  
 FR-2014-00724 balbcare.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

# Admissibility of documents

## □ The College or the Expert

1. reserves the right not to accept documents provided in a foreign languages
2. will take no account of documents provided by hyperlink
3. will take no account of unusable documents
4. will not take account of arguments that are not supported by documentary evidence

**In accordance with Article II.vi.b. of the Regulations, the College or the Expert will not undertake any additional search.**

**Few documents BUT the right documents!**



*"How to avoid inadmissibility in the Syreli procedure": [read the blog](#)*



## Some reference rulings

### On the lack of documentary evidence

FR-2020-02077 le-smv.fr  
 FR-2020-02064 bonaggiunta-avocats-victimes.fr  
 EXPERT-2020-00780 rsi.fr  
 FR-2016-01239 mavenhosting.fr  
 FR-2016-01093 canordest.fr

### On documents submitted by hyperlink

FR-2021-02315 vokkero.fr  
 FR-2020-02078 samse-groupe.fr  
 FR-2020-02062 expert.fr  
 FR-2020-01986 erozone.fr

### On inadmissible documents provided in a foreign language

FFR-2021-02373 byo.fr  
 FR-2020-02062 expert.fr  
 FR-2020-01972 agence-roberthalf.fr  
 FR-2019-01922 cluse.fr

### On admissible documents provided in a foreign language

EXPERT-2021-00831 kubapay.fr  
 EXPERT-2020-00774 facebookpay.fr  
 FR-2021-02376 prog-lidl.fr  
 FR-2020-01971 eichholtz.fr

### On unusable documents

FR-2016-01180 akin.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

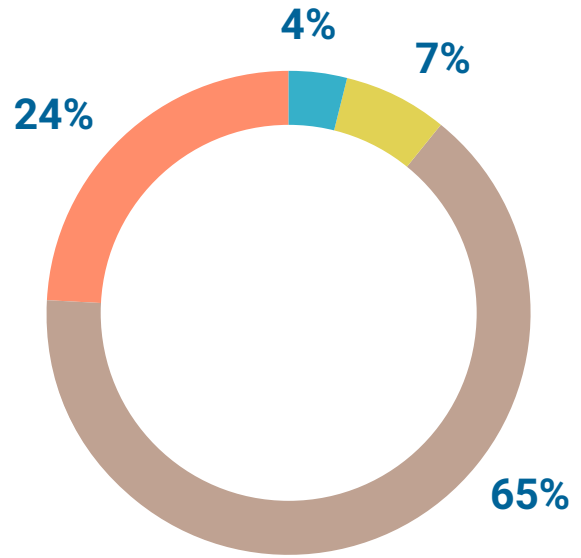
# Admissibility of the request and of the documents

## Some figures

**4%**  
of Syreli cases  
are inadmissible

as against 0% in Expert ADR

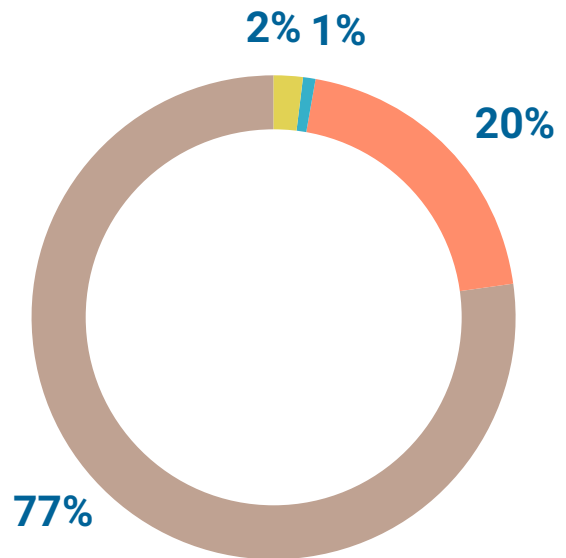
- Judicial procedure under way
- Missing document
- Arguments and document in foreign language
- Lack of power of representation



**6.5%**  
of admissible Syreli  
cases contain inadmissible  
documents

as against 0% in Expert ADR

- Untranslated documents
- Illegible/unusable documents
- Documents provided beyond deadlines
- Documents provided by hyperlink



## Claimant's standing

### Article L.45-6 of the CPCE:

*"Any person with standing may ask the competent registrar to delete a domain name or transfer it to him providing the domain name falls within the cases provided in L.45-2 of the CPCE.[...]"*

### The Claimant has standing in particular if:

1. He holds an identical, almost identical or similar domain name<sup>(1)</sup> to that of the disputed domain name under another TLD
2. He holds an almost identical or similar domain name<sup>(1)</sup> to that of the disputed domain name under the same TLD
3. He holds a trademark<sup>(1)</sup>, company name<sup>(1)</sup>, family name or pseudonym, property title<sup>(1)</sup> (work, patent, drawing and model, etc.), an A.O.C./A.O.P. (controlled/protected designation of origin)<sup>(1)</sup> that is similar, identical or nearly identical to the disputed domain name
4. He can show proof of having been the holder of the domain name under dispute (registration invoice in his name, old extract from the Whois database, etc.)

<sup>(1)</sup> Irrespective of the date of creation or registration.

**Any request filed by a Claimant without evidencing his standing will be declared inadmissible by the College or the Expert.**



*"Domain name litigation: recognition of the rights of a controlled designation of origin (AOC) in Syreli": [read the blog](#)*

### Some reference rulings

#### Lack of standing

EXPERT-2020-00780 rsi.fr  
 FR-2021-02373 byo.fr  
 FR-2021-02315 vokkero.fr  
 FR-2020-02072 bouygues-constructionstp.fr

#### Description of standing

FR-2017-01381 muscadet.fr  
 FR-2019-01769 lacompagniedulin.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

## Claimant's eligibility

### The Claimant is considered ineligible

When he is not located in an EU member state.

BREXIT: for registrations made prior to and during the 2020 transitional period, holders resident in the United Kingdom remain eligible for the .fr TLD.



**Although having standing, a Claimant that is not eligible under the naming policy of the .fr TLD may not benefit from the transfer of a domain name.**

### A claim from a Claimant who is not eligible under the naming policy is admissible when:

1. It requests the transfer of the domain name to one of its direct wholly-owned subsidiaries located in an EU Member State and providing such subsidiary can show a legal tie to the Claimant

2. It requests deletion of the domain name.



**The College or the Expert will consider a request for the transfer of a domain name to an indirect subsidiary as inadmissible, even if the subsidiary is wholly-owned.**



*"What means of action for a rights holder ineligible under the .fr naming policy?": [read the blog](#)*  
*"BREXIT and .fr domain names": [read the blog](#)*



## Some reference rulings

### Ineligible claimants

FR-2020-02245 googlecar.fr  
 FR-2020-01950 smiledirectclub.fr  
 FR-2019-01936 instax.fr  
 EXPERT-2017-00170 netsuite.fr

### Claimants ineligible but requests admissible

**Request for transfer to a direct subsidiary**  
 FR-2021-02260 nintendo-shop.fr  
 EXPERT-2020-00750 facebooker.fr  
 EXPERT-2020-00774 facebookpay.fr

FR-2019-01786 lattescrossfit.fr  
 FR-2018-01670 thombrowne.fr

### Request for deletion

EXPERT-2021-00912 hbomax.fr  
 FR-2020-02222 brookssolds.fr

### BREXIT

FR-2019-01940 vinted-important.fr  
 FR-2020-01943 wwwvinted.fr  
 EXPERT-2020-00753 scysscanner.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

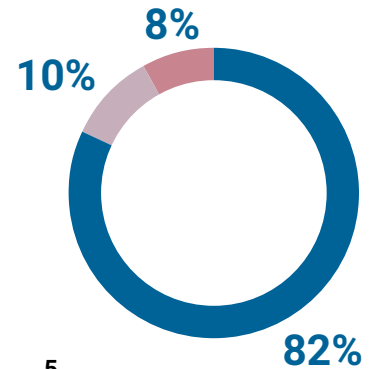
# Claimant's eligibility

## Some figures

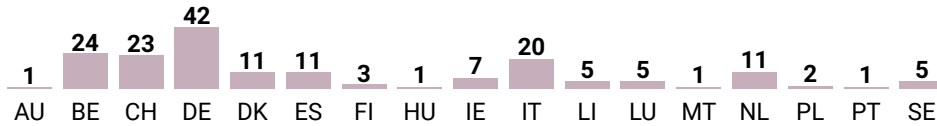
### For Syreli

Claimants' countries of residence

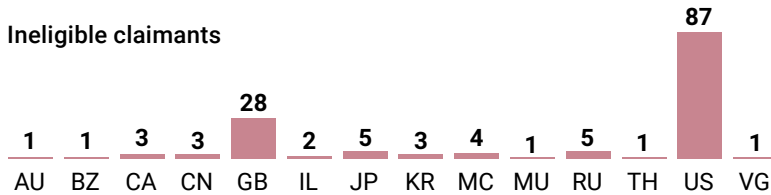
- France
- Eligible territories (EU + EFTA member countries)
- Ineligible territories



Eligible claimants



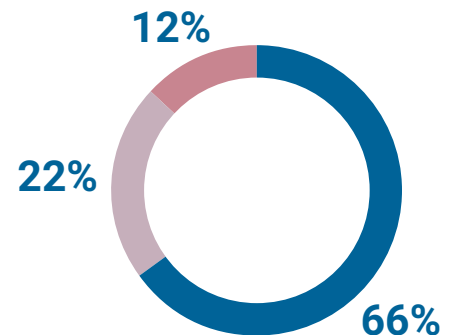
Ineligible claimants



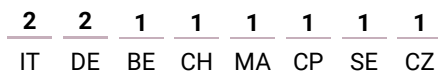
### For Expert ADR

Pays de résidence des Requérants

- France
- Eligible territories under the naming policy
- Ineligible territories



Eligible claimants



Ineligible claimants



## Grounds for the request

### Article L.45-2 of the CPCE:

**Paragraph 1:** “The domain name is likely to impinge on public order or morality or rights guaranteed by the French Constitution or French law”;

**Paragraph 2:** “The domain name is likely to infringe intellectual property rights or personal rights, unless the Claimant provides proof of a legitimate interest and is acting in good faith”;

**Paragraph 3:** “The domain name is identical or similar to that of the French Republic, a local authority or grouping of local authorities or a national or local institution or public service, unless the Claimant provides proof of a legitimate interest and is acting in good faith”.



**Any request filed on grounds other than those set forth in Article L.45-2 of the CPCE will be declared inadmissible by the College or the Expert.**



“L.45-2 paragraph 1 of the CPCE: when a domain name infringes the law”: [read the blog](#)

“The defence of personality rights in Syreli”: [read the blog](#)



## Some reference rulings

### Paragraph 1

FR-2021-02412 nexity-mulhouse.fr  
 FR-2021-02379 navetteparcasterix.fr  
 FR-2021-02377 hoteldugrandlarge.fr  
 FR-2021-02268 patreon.fr

### Paragraph 2

EXPERT-2021-00972 esselunga.fr  
 EXPERT-2021-00971 baracuta.fr  
 FR-2021-02418 purchase-lidl.fr  
 FR-2021-02417 smiledirectclub.fr

### Paragraph 3

FR-2021-02383 vacances-scolaires-gouv.fr  
 FR-2021-02344 cgsp-silver-economy.fr  
 FR-2020-02012 ansc.fr  
 FR-2019-01873 allocpam.fr

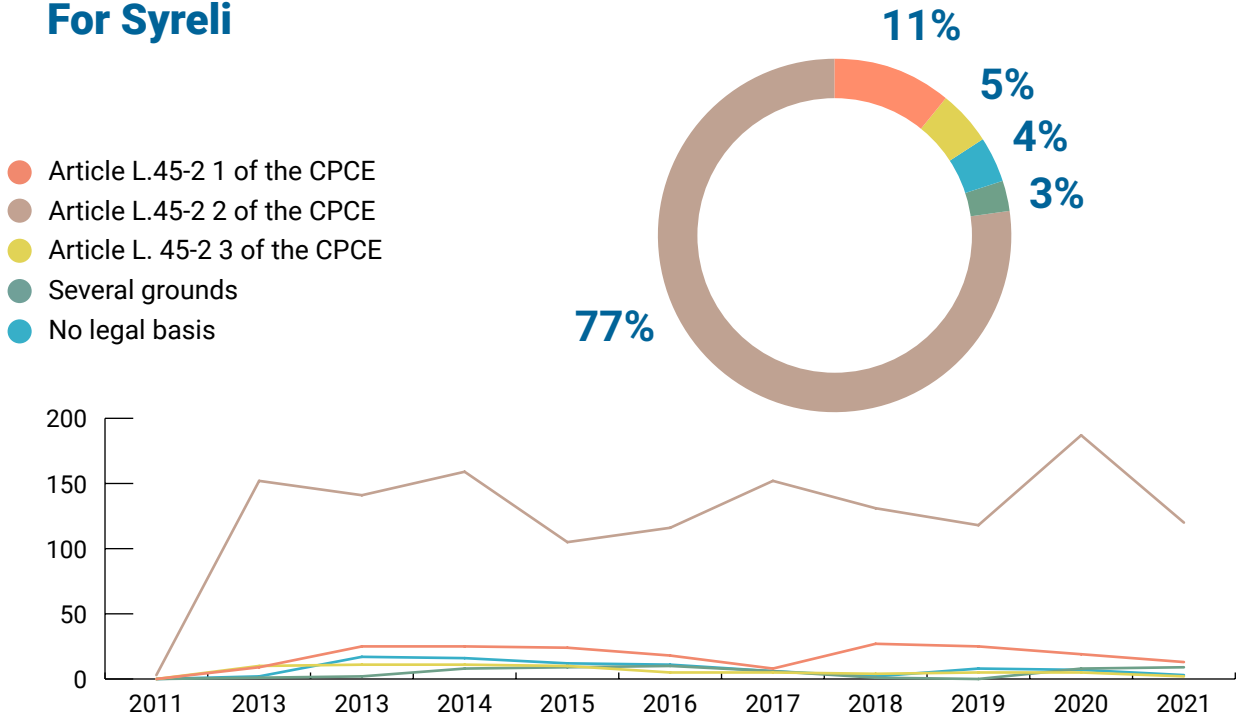
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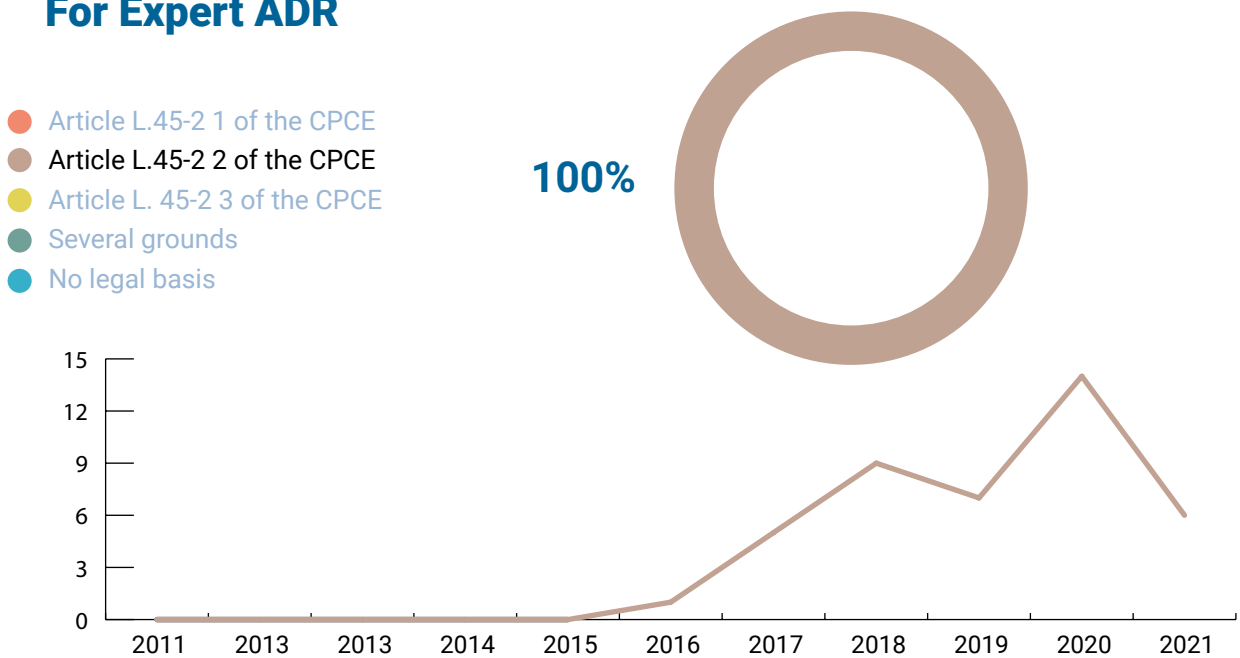
# Grounds for the request

## Some figures

### For Syreli



### For Expert ADR



## In the event of the Holder's agreement

### The College or the Expert takes due note of the Holder's agreement if and only if:

1. The Claimant has standing and is eligible under the .fr naming policy;
2. The Holder's agreement is explicit
3. The agreement is to the transfer to the Claimant and not to a third party

In Syreli, **8.5%** of Claimants obtained the Holder's agreement, as against **11%** for Expert ADR.

In the absence of any of these criteria, the College or the Expert will continue to study the case considering that the Holder does not agree to the transfer or deletion of the domain name.

### Some reference rulings

#### Holder's agreement

FR-2019-01932 lacentraledelauto.fr  
 FR-2019-01933 u-paris2-assas.fr  
 FR-2020-01945 bricoramadirect.fr  
 EXPERT-2018-00431 jeu-renault.fr  
 EXPERT-2018-00432 viamicheline.fr  
 EXPERT-2021-00832 michelinpodcast.fr

#### Holder's agreement to the transfer of the domain name to a third party

FR-2012-00038 sportintown.fr

#### Holders' agreement without Claimant having standing

FR-2014-00606 tandm.fr

#### Holder's non-explicit agreement

FR-2021-02334 booking7taxi.fr  
 FR-2020-02228 bollore2022.fr  
 FR-2016-01274 concours-sesame.fr

#### Holder's implicit agreement to misappropriated information

FR-2021-02336 union-invivo-france.fr  
 FR-2021-02323 urssaf-paiement.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

## In case of refusal or lack of response from the Holder

### □ The College or the Expert will examine the infringement of the provisions of Article L.45-2 of the CPCE, analysing:

#### 1. The infringement of rights invoked by the Claimant

The College or the Expert will examine:

- for a request based on **Article L.45-2 paragraph 1**, evidence of the domain name's offending public order or morality or infringing rights guaranteed by the Constitution or by the law;
- for a request based on **Article L.45-2 paragraph 2**, evidence of the existence of intellectual property or personality rights prior to the disputed domain name;
- for a request based on **Article L.45-2 paragraph 3**, evidence:
  - of similarity between the disputed domain name and that of the French Republic, a local or regional authority, a grouping of such authorities, a national or local public institution or service and
  - of the prior nature of the right invoked.

**In rare cases the Syreli College has admitted the infringement of rights subsequent to the disputed domain name: FR-2021-02378 gomesse.fr, FR-2021-02272 eat.fr**

#### 2. Proof of the Holder's lack of legitimate interest or bad faith, except in the cases provided in Article L.45-2 paragraph 1 of the CPCE.



*"Syreli: can one rely on a subsequent right to a domain name to win a case?"* : [read the blog](#)

*"L.45-2-1 of the CPCE: when a domain name infringes the law"*: [read the blog](#)

*"The defence of personality rights in Syreli"*: [read the blog](#)

Find all our rulings on <https://www.syreli.fr/fr/decisions>

Contents

## Cases provided in Article L.45-2 paragraph 1 of the CPCE

In accordance with the provisions of Article L.45-2 paragraph 1, the Claimant's merely providing evidence of the infringement exempts it from providing evidence of the Holder's lack of legitimate interest or bad faith. Indeed, once the Holder infringes these provisions it cannot *de facto* prove a legitimate interest or its good faith.

By way of example, the College has already ruled that domain names infringed:

- the law governing the monopoly of retail sales of manufactured tobacco products;
- the law prohibiting the use of any name including the terms "mutual" or terms deriving from it by entities that are not governed by the provisions of the *Code de la Mutualité* [in essence, mutual insurance companies];
- rights guaranteed by the law when it was able to establish explicitly from the documents filed that as a result of the registration of a domain name the Claimant was a victim of fraud;
- a right guaranteed by the law, by virtue of Article 1240 of the Civil Code, when a domain name identical or similar to the pre-existing distinctive sign (logo, company name, domain name, AOC, AOP, etc.) of the Claimant, who can prove a right to said sign, has been registered mainly with a view to profiting from the Claimant's reputation by creating confusion in consumers' minds.



"L.45-2-1 of the CPCE: when a domain name infringes the law": [read the blog](#)

"Domain name litigation: recognition of the rights of a controlled designation of origin (AOC) in Syreli": [read the blog](#)



### Some reference rulings

#### Inappropriate use of a term

FR-2012-00185 mutualité.fr

#### Illicit online sale of products

FR-2012-00229 achat-cigarettes.fr

FR-2012-00236 cigarettes-enligne.fr

FR-2012-00254 cigs.fr

#### Fraud

FR-2020-01975 loxam-grandparis.fr

FR-2017-01448 automotor-group.fr

#### Distinctive signs

FR-2021-02377 hoteldugrandlarge.fr

FR-2021-02374 hoteldelamaree.fr

FR-2021-02333 sodijour.fr

FR-2021-02246 weebot.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

Contents

## Some figures

### For Syreli

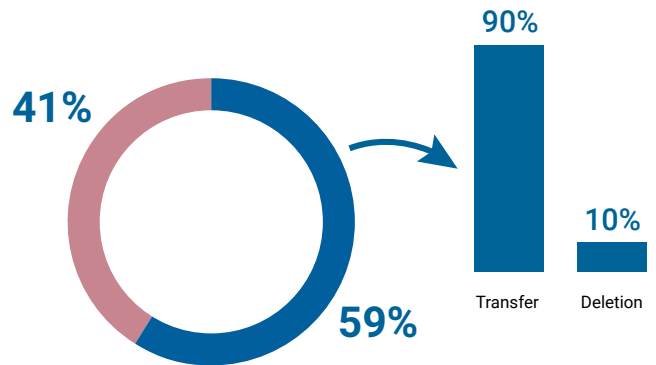
193 rulings handed down

**59%**  
acceptance  
rulings

of which 90% transfer  
rulings

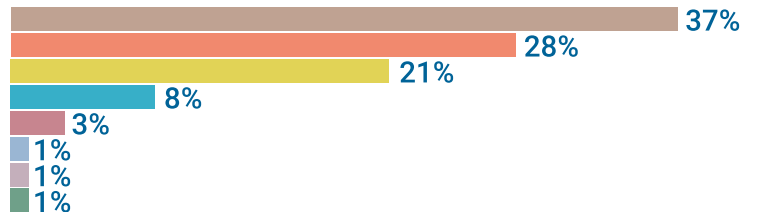
and 10% deletion  
rulings

**41%**  
rejection  
rulings



### Reasons for acceptance of requests

- Infringement of a logo/company name/ trade name/acronym/etc.
- Fraud
- Holder's agreement
- Infringement of a domain name
- Illicit online sale of product
- Infringement of an AOC
- Inappropriate use of a term
- Infringement of an application name



### Reasons for rejection of requests

- Missing document
- Judicial procedure under way
- Domain name pre-dates Claimant's rights
- Lack of power of representation
- Contractual relations between the Parties



No Expert ADR ruling has been handed down on these grounds

## Cases provided in Article L.45-2 paragraph 2 of the CPCE

The College or the Expert considers that the domain name is likely to infringe **intellectual property rights** when the Claimant can prove:

- a right valid in France: registration of a trademark, title to a creative work,
- the prior nature of this right to the disputed domain name.

The College or the Expert considers that the domain name is likely to infringe **personality rights** when the Claimant, whether a natural or a legal person, can prove:

- his/her/its identity: national ID card, passport, Kbis (Chamber of Commerce extract) of the company, etc.
- the prior nature of this personality right to the disputed domain name (date of birth, date of incorporation, etc.)

A mere request for trademark registration is not enough; give preference for example to certificates of registration.

In rare cases, the Syreli College has admitted infringement of rights subsequent to the disputed domain name: FR-2021-02378 gomesse.fr, FR-2021-02272 eat.fr

**The classification as infringement of rights invoked by the Claimant is not sufficient to win a case; the Claimant must also provide proof of the Holder's lack of legitimate interest or bad faith.**

### Some reference rulings

#### Infringement of intellectual property rights

EXPERT-2021-00972 esselunga.fr  
 EXPERT-2021-00971 baracuta.fr  
 FR-2021-02418 purchase-lidl.fr  
 FR-2021-02417 smiledirectclub.fr

#### Infringement of personality rights

##### Natural persons:

FR-2021-02413 patronyme.fr  
 FR-2021-02381 prenomnom.fr

##### Legal persons:

FR-2021-02364 bouyguesconstructions-tp.fr  
 FR-2021-02395 tmc-bejenne.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

## Some figures

### For Syreli

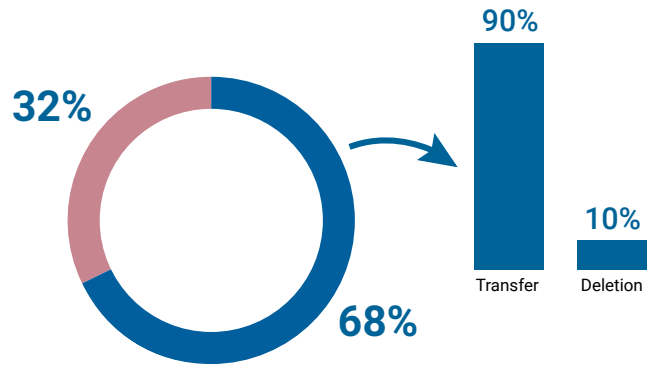
1,384 rulings handed down

**68%**  
acceptance  
rulings

of which 90% transfer  
rulings

and 10% deletion  
rulings

**32%**  
rejection  
rulings



### Reasons for acceptance of requests

- Profiting from reputation by creating a risk of confusion
- Holder's agreement
- Commercial use with the intention of misleading
- Body of evidence
- Domain name registered mainly with a view to selling it to a rights holder
- To prevent registration by a rights holder
- Damage to the Claimant's reputation
- Legal disappearance of the Holder/loss of right



### Reasons for rejection of requests

- Missing document
- Domain name pre-dates Claimant's rights
- Claimant not eligible under the naming policy
- Claimant's lack of standing
- Lack of power of representation
- Contractual relations between the Parties
- Judicial procedure under way
- Holder's good faith



## Some figures

### For Expert ADR

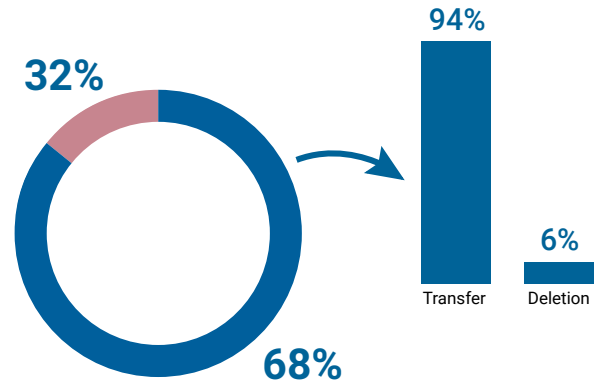
42 rulings handed down

**86%**  
acceptance  
rulings

of which 94% transfer  
rulings

and 6% deletion  
rulings

**14%**  
rejection  
rulings



### Reasons for acceptance of requests

- Profiting from reputation by creating a risk of confusion
- Commercial use with the intention of misleading consumers
- Holder's agreement
- Body of evidence



### Reasons for rejection of requests

- Missing document
- Claimant not eligible under the naming policy





## Cases provided in Article L.45-2 paragraph 3 of the CPCE

The College or the Expert considers that the domain name is identical or similar to that of the French Republic, a local authority or grouping of local authorities or a national or local institution or public service when the Claimant proves:

- its existence: ministerial order, INSEE (National Statistics Institute) sheet, decree, etc.;
- the prior nature of its name relative to the disputed domain name.



**The classification as infringement is not sufficient to win a case; the Claimant must provide proof of the Holder's lack of legitimate interest or bad faith.**



### Some reference rulings

#### Infringement not recognised

FR-2017-01306 golf-sarreguemines.fr  
FR-2015-00879 centre-valdeloire.fr

#### Infringement recognised

FR-2021-02383 vacances-scolaires-gouv.fr  
FR-2021-02344 cgsp-silver-economy.fr  
FR-2020-02170 le-smv.fr  
FR-2020-02012 ansc.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

Contents

## Some figures

### For Syreli

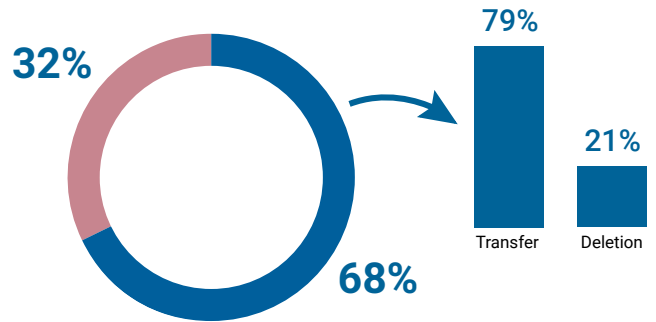
68 rulings handed down

**41%**  
acceptance  
rulings

of which 79% transfer  
rulings

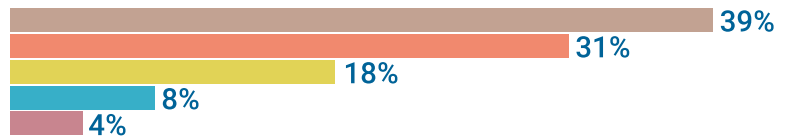
and 21% deletion  
rulings

**59%**  
rejection  
rulings



### Reasons for acceptance of requests

- Profiting from reputation with risk of confusion
- Body of evidence
- Holder's agreement
- Commercial use with the intention of misleading consumers
- To prevent registration by a rights holder



### Reasons for rejection of requests

- Missing document
- Domain name pre-dates Claimant's rights
- Claimant's lack of standing
- Lack of power of representation
- Contractual relations between the Parties



No Expert ADR ruling has been handed down on these grounds

## Holder's legitimate interest

Article R.20-44-46 of the CPCE

### The Holder has a legitimate interest if

1. He uses (or shows that he has prepared to use) the domain name in the context of an offer of goods or services
2. He is known under an identical or similar name to this domain name EVEN in the ABSENCE of rights
3. He makes non-commercial use of the domain name:
  - with no intention of misleading consumers,
  - or
  - without damaging the reputation of a name to which a right is recognised or established.

In the event of a lack of legitimate interest, the College or the Expert will grant the measure requested by the Claimant



**Non-exhaustive list**

The College or the Expert will then assess the Holder's bad faith.



### Some reference rulings

**Legitimate interest: use of the domain name in the context of an offer of goods or services**

FR-2021-02401 schoenenbourg.fr  
 FR-2016-01227 rambolitrain.fr  
 FR-2016-01178 palaiseau.fr  
 FR-2016-01182 creationvideotelling.fr  
 FR-2019-01821 autodiscountsport.fr

**Legitimate interest: known under an identical or similar name to the domain name**

FR-2020-02087 prismup.fr  
 FR-2017-01428 palomas.fr  
 FR-2017-01298 m3.fr

**Holder's lack of legitimate interest**

FR-2021-02418 purchase-lidl.fr  
 FR-2021-02267 pizzatimes.fr  
 FR-2021-02261 autoentrepreneururssaf.fr  
 FR-2021-02211 korian-sa.fr  
 EXPERT-2021-00971 baracuta.fr  
 EXPERT-2020-00774 facebookpay.fr  
 EXPERT-2019-00507 carrefour-achat.fr  
 EXPERT-2019-00502 1xbet.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

## Bad faith of the Holder

Article R.20-44-46 of the CPCE

### The College or Expert considers a Holder to be acting in bad faith if:

**Paragraph 1.** It has obtained or requested registration of the domain name primarily with a view to selling, renting or transferring it [...] and not for the purpose of actually operating it (see following pages);

**Paragraph 2.** It has obtained or requested registration of the domain name with the aim of damaging the reputation (see following pages) of the Claimant or of a product or service similar to or associated with this name;

**Paragraph 3.** It has obtained or requested registration of the domain name with the primary aim of profiting from the Claimant's reputation by creating confusion in consumers' minds (see following pages).

If bad faith is established, the College or the Expert will grant the measure requested.

 **Non-exhaustive list**

Other indications of bad faith have also been taken into account by the College or the Expert (see hereunder). Certain Syreli rulings have also recognised the Holder's good faith in particular cases.

### Some reference rulings

**Domain name registered with a view to disrupting commercial relations**

FR-2012-00223 reminiscence-paris.fr

**Domain name registered with a view to preventing registration by a rights holder**

FR-2020-02024 truelayer.fr

FR-2013-00476 leclerc-pharmacie-discount.fr

FR-2016-01196 prenompatronyme.fr

**Bad faith established on the basis of a body of evidence**

EXPERT-2021-00931 blackbaud.fr

EXPERT-2021-00831 kubapay.fr

FR-2017-01292 lab-merieux.fr

FR-2016-01228 patronyme-metier.fr

**Holder's good faith**

FR-2021-02401 schoenenbourg.fr

FR-2020-02087 prismup.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

## Bad faith of the Holder

### Interpretation of Article R.20-44-46 paragraph 1 of the CPCE

Paragraph 1: *“The fact of having obtained or requested registration of the domain name primarily with a view to selling, renting or transferring it [...] and not for the purpose of actually operating it, can be characterised as bad faith.”*

### The College or the Expert must:

1. Determine whether the Holder can show operation of the domain name prior to its proposed sale
  - If so, the criterion of bad faith cannot be upheld
2. Study whether the proposed sale, rental or transfer of the domain name is the Holder's main aim
  - If so, the criterion of bad faith can be upheld

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### Some reference rulings

#### Domain name registered mainly with a view to selling it

FR-2019-01880 florihana.fr

FR-2018-01739 rainx.fr

FR-2018-01565 docmorris.fr

EXPERT-2017-00130 michelinman.fr

FR-2017-01395 pharmaprix.fr

FR-2017-01309 stada.fr

Find all our rulings on <https://www.syreli.fr/fr/decisions>

## Bad faith of the Holder

### Interpretation of Article R.20-44-46 paragraph 2 of the CPCE

Paragraph 2: "The fact of having obtained or requested registration of the domain name with the aim of damaging the reputation of the Claimant or of a product or service similar to or associated with this name can be characterised as bad faith."

### The College or the Expert must:

1. Study whether the domain name damages the reputation of the Claimant OR an associated product or service
2. Determine whether the damage exists in consumers' minds (renown of the product, the brand, the Claimant, etc.)
  - If so, the criterion of bad faith can be upheld

---

### Some reference rulings

#### Domain name registered with the aim of damaging the reputation of the Claimant or a product or service associated with this name

EXPERT-2020-00670 toskani.fr  
FR-2020-02204 francefretexpress.fr  
FR-2019-01969 consulathonoraireallemagnerennes.fr  
FR-2015-01033 lalaitiere.fr  
FR-2015-01018 base-loisirs-creteil.fr  
FR-2015-00938 adopteunmecgratuit.fr  
FR-2014-00815 prenompatronyme.fr  
FR-2013-00443 etreenceinte.fr

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## Bad faith of the Holder

### Interpretation of Article R.20-44-46 paragraph 3 of the CPCE

Paragraph 3: "The fact of having obtained or requested registration of the domain name with the primary aim of profiting from the Claimant's reputation by creating confusion in consumers' minds can be characterised as bad faith."

### The College or the Expert must:

1. Determine whether the domain name was registered mainly with a view to profiting from the renown of the Claimant OR of an associated product or service
2. Study, in light of the documents, whether the domain name creates a risk of confusion in consumers' minds (renown of the product, the brand, the Claimant, etc.)
  - If so, the criterion of bad faith can be upheld



**It is not sufficient for the Claimant to state that it is known in its sector of activity; it must prove it.**



**A French Holder cannot claim ignorance of or ignore the reputation of major companies established in France.**



### Some reference rulings

**Domain name registered mainly with a view to profiting from the Claimant's reputation by creating confusion in consumers' minds**

FR-2021-02406 colas-rapport  
 FR-2021-02402 boite-montre.fr  
 FR-2021-02394 boursolive.fr  
 FR-2021-02392 orange-groupe.fr  
 EXPERT 2021- 00912 hbomax.fr  
 EXPERT 2021- 00973 wwwfrancetv.fr

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## Our essential sections

The Syreli platform: [www.syreli.fr](http://www.syreli.fr)

Syreli rulings: [www.syreli.fr/decisions](http://www.syreli.fr/decisions)

The Expert ADR platform: <https://www.parl-expert.fr>

Expert ADR rulings: <https://www.parl-expert.fr/fr/decisions>

Our legal brochures:

<https://www.afnic.fr/en/observatory-and-resources/documents-to-consult-or-download/practical-guides/>

- Guide for rights holders
- Guide for name holders
- Brochure “Facilitating dispute resolution”

### Latest news

#### The new Syreli Platform is online!

- You can now file your request in several stages and complete it later (attention: after 15 days without validation on your part the application is deleted).

The arguments you present in support of your claim or response will no longer be limited.

- A search engine for rulings handed down by Afnic (Syreli, Expert ADR and also PREDEC) is available to you in the section headed “*Décisions rendues*” (Rulings handed down).
- Various documents essential to an understanding of ADR procedures are accessible in the “Resources” section.
- Tutorials are provided to help you step by step in putting your applications together or responding to a request.