

French Bar cracks down on confusing domain name France - Hogan Lovells LLP

Domain names

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On January 30 2015 the Paris Tribunal of First Instance ordered the French company Jurisystem SAS to cancel its registration of the domain name 'avocat.net' ('*avocat*' means 'lawyer' in French) mainly on the grounds that it could create confusion in the minds of internet users.

Jurisystem is a company specialised in the creation of websites dedicated to the legal profession. It registered the domain name 'avocat.net' and used it to point to a website, 'www.avocat.net', which allowed internet users to compare lawyers' services and potentially find a lawyer online. The *Conseil National des Barreaux* (CNB), the national institution that represents all practicing lawyers in France, was made aware of this website and underlying domain name due to Jurisystem's application for registration of the trademark AVOCAT.NET. Despite Jurisystem's withdrawal of the trademark application in question, the CNB filed an action against Jurisystem with respect to the registration of the domain name 'avocat.net' and use of the associated website, arguing, among other things, that:

- It was not made clear on the website whether it was operated by lawyers, and furthermore Jurisystem offered legal services on the website which were provided by non-lawyers. Jurisystem was thus using the French '*avocat*' title illegally.
- Jurisystem was illegally advertising the provision of legal services as it promoted its services via a Facebook page and had appeared on the national television news. Indeed, under French law, legal services may not be advertised on television.
- The website presented itself as being "the number 1 lawyer comparison website in France". Such reference constituted an unfair commercial practice and thereby violated French consumer law.

Jurisystem argued in turn that:

- The website did not offer legal advice but rather provided a lawyer directory and a connection tool.
- The manner in which the website was presented did not create any confusion with the French '*avocat*' title since those presented as being lawyers were indeed lawyers.
- All legal services offered on the website were provided by French lawyers.
- The lawyers referenced on the website did not advertise via the website. Therefore Jurisystem could not be considered as conducting any illicit advertising activities.
- The website did not contain any reference to it being "the number 1 lawyer comparison website in France".

In its decision, the Tribunal of First Instance ruled as follows:

- Article 74 of the French Law of December 31 1971 reforming certain judicial and legal professions prohibits non-lawyers from using a title which potentially creates confusion in the mind of the public with the profession of *avocat*. The website 'www.avocat.net' included services provided by non-lawyers, without internet users being clearly informed of this. Indeed, the bailiff reports showed that certain services, such as the connection of lawyers and clients, were provided by Jurisystem itself. The tribunal thus considered that Jurisystem's use of the term 'avocat.net' by itself, without any additions, could create confusion in the mind of the public and constituted an unfair commercial practice. The tribunal therefore ordered Jurisystem to stop using the term 'avocat.net' to identify its website and also to cancel its registration of the domain name 'avocat.net'.
- Use of the slogan "the number 1 lawyer comparison website in France" (evidenced by the bailiff's report, despite Jurisystem's assertions) constituted an unfair commercial practice. The tribunal considered that the slogan was a false statement which could mislead consumers regarding the nature of the services offered by Jurisystem, given that the website in question only compared lawyers who had subscribed to Jurisystem's services and the comparison was limited to the lawyers' fees. The tribunal therefore ordered Jurisystem to cease use of this slogan.
- However, the tribunal considered that a Facebook page and an appearance on national television news could not be considered an offer of services or an advertisement for legal assistance.

The French Bar introduced some new internal rules in April 2010. The new provisions specifically provide

that any lawyer must inform the French Bar when setting up a website and also inform it of the domain names being used to point to such website. The domain names in question should contain the name of the lawyer or of the law firm, which may be preceded or followed by the word 'avocat'. The use of domain names describing the legal profession in general terms, or which may lead to confusion or refer to a particular area of law, is not allowed.

Therefore, even if the domain name 'avocat.net' had actually been registered to a practicing lawyer or law firm and used for the exclusive provision of legal services, the CNB and/or the French courts may still have ordered it to be cancelled.

Interestingly, the equivalent rules applying to English lawyers (contained within the Solicitors Regulation Authority or SRA Handbook) make no specific reference to domain names (although both the French and the English rules do have provisions relating to website content and publicity in general). As a result, certain firms in the United Kingdom have shown themselves to be rather entrepreneurial in registering generic domain names such as 'personalinjury.co.uk' and pointing them towards their websites. Whilst both 'solicitors.co.uk' and 'solicitor.co.uk' appear to be owned by private firms of solicitors in the United Kingdom, 'avocats.fr' and 'avocat.fr' are both held by the French Bar.

The French Bar Rules (*Règlement Intérieur National*) are available (in French) [here](#). Article 10.5 deals with internet publicity and domain names.

The SRA Handbook is available [here](#). Chapter 8 of the Code of Conduct applies to publicity, although it does not specifically draw a distinction between online and offline activities and does not mention domain names.

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