

## **ADMINISTRATIVE PANEL DECISION**

Museum National d'Histoire Naturelle v. Domain Administrator  
Case No. D2023-3360

### **1. The Parties**

The Complainant is Museum National d'Histoire Naturelle, France, represented by Alain Bensoussan Avocats, France.

The Respondent is Domain Administrator, United States of America.

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

The disputed domain name <museumnalhistnaturelle.com> is registered with Dynadot, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed in French with the WIPO Arbitration and Mediation Center (the "Center") on August 4, 2023. On August 4 and 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 14, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent (not available) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 15, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on August 29, 2023.

On August 15, 2023, the Center informed the parties in English and French, that the language of the registration agreement for the disputed domain name is English. On August 29, 2023, the Complainant submitted the Complaint translated into English. The Respondent did not submit any comment on the language of the proceeding.

The Center verified that the Complaint together with the amended translated 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 August 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 19, 2023. The Respondent did not submit any response.

Accordingly, the Center notified the Respondent's default on September 20, 2023.

The Center appointed Edoardo Fano as the sole panelist in this matter on October 11, 2023. 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.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to [the] Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a response from the Respondent.

#### **4. Factual Background**

The Complainant is the Museum National d'Histoire Naturelle, located in France and owning several trademark registrations for "MUSEUM NAL HIST NATURELLE and design", among which:

- European Union Trademark Registration No. 018768974 for "MUSEUM NAL HIST NATURELLE and design", registered on January 25, 2023;
- French Trademark Registration No. 4630177 for "MUSEUM NAL HIST NATURELLE and design", registered on October 23, 2020.

The Complainant also operates on the Internet, its website being "www.mnhn.fr".

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on September 26, 2022, that is on the same day when the Complainant filed the European Union Trademark Application No. 018768974 for "MUSEUM NAL HIST NATURELLE and design", and it resolves to a website in which it is offered for sale for USD 990.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that disputed domain name is identical to the denominative part of its figurative trademark "MUSEUM NAL HIST NATURELLE and design".

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name, it is not commonly known by the disputed domain name, and it is not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant's trademark "MUSEUM NAL HIST NATURELLE and design" is well known as a French museum. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain name and the Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith, since the latter was registered by the Respondent essentially in order to resell it to the Complainant for a high price likely in excess of the Respondent's costs related to the disputed domain name.

## **B. Respondent**

The Respondent has made no reply to the Complainant's contentions and is in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

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

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

In principle, panel assessment of identity or confusing similarity involves comparing the domain name and the textual components of the relevant mark. [WIPO Overview 3.0](#), section 1.10.1. In view of the fact that the minor design components of the Complainant's trademark do not overtake in prominence the textual components, the Panel will limit its consideration to those textual elements (*i.e.*, MUSEUM NAL HIST NATURELLE).

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is also well accepted that a generic Top-Level Domain, in this case ".com", is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1. Based on the available record, the Panel finds the first element of the Policy has been established.

## B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The disputed domain name redirects to a website in which it is offered for sale for USD 990, a high price, more likely than not, in excess of the Respondent’s costs related to the disputed domain name. The Panel believes that this high price would be paid only by the Complainant (or by someone trying to trade off the Complainant’s trademark rights).

Moreover, the Panel finds that the composition of the disputed domain name carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

## C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant’s trademark “MUSEUM NAL HIST NATURELLE and design” as a French museum is clearly established, and the Panel finds that the Respondent must have known of the Complainant, and deliberately registered the disputed domain name in bad faith to target the Complainant’s nascent trademark rights, as further detailed below.

The Panel further notes that the disputed domain name is also being used in bad faith, since the offer to sell the disputed domain name for a price of USD 990, a high price which is more likely not in excess of the Respondent’s costs related to the disputed domain name that the Panel believes would be paid only by the Complainant (or by someone trying to trade off the Complainant’s trademark rights), is evidence of bad faith within the meaning of paragraph 4(b)(i) of the Policy.

Moreover, the Panel considers that the nature of the inherently misleading disputed domain name, which is identical to the denominative part of the Complainant’s figurative trademark “MUSEUM NAL HIST NATURELLE and design”, and the fact that it was registered on the same day when the Complainant filed the European Union Trademark Application No. 018768974 for “MUSEUM NAL HIST NATURELLE and design”, further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **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 name, <museumnalhistnaturelle.com>, be transferred to the Complainant.

*/Edoardo Fano/*

**Edoardo Fano**

Sole Panelist

Date: October 17, 2023