

## **ADMINISTRATIVE PANEL DECISION**

La Monnaie De Paris v. Privacy Service Provided by Withheld for Privacy ehf / yoyo ben

Case No. D2022-1829

### **1. The Parties**

The Complainant is La Monnaie De Paris, France, internally represented.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / yoyo ben, Nigeria.

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

The disputed domain name <monneiadeparis.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 20, 2022. On May 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 23, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on May 24, 2022 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 amendment to the Complaint on May 25, 2022.

The Center verified that the Complaint together with the amendment to 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 May 27, 2022. In accordance with the Rules, paragraph 5(a), the due date for Response was June 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 17, 2022.

The Center appointed Andrew D. S. Lothian, Christophe Caron and Assen Alexiev as panelists in this matter

on July 5, 2022. The Panel finds that it was properly constituted. Each member of 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 La Monnaie de Paris, or Paris Mint. It is an institution owned by the French state which produces France's coins. The Complainant can trace its history back to the year 864 and is the oldest French institution. Through its website at "www.monnaiedeparis.fr", the Complainant sells collectors' coins and medals as well as tickets to the various exhibitions in its museum. In its 2020 Annual Report, the Complainant reported turnover of EUR 115 million for the 2020 financial year, of which EUR 45.9 million represented revenue from collectors' coins.<sup>1</sup> The Complainant states that it owns various "monnaiedeparis" formative domain names, including <monnaiedeparis.fr>, <monnaiedeparis.com>, <monnaiedeparis.net>, <monnaiedeparis.org> and <monnaiedeparis.eu>.

The Complainant is the owner of French Registered Trademark No. 3861309 in respect of the figurative mark consisting of the words MONNAIE DE PARIS in white on a black circle beneath a line-drawn design, also in white, representing the façade of the Complainant's headquarters building at 11 Quai de Conti, Paris, filed and registered on September 23, 2011, and duly registered in Classes 6, 8, 14, 16, 18, 21, 25, 26, 28, 34, 35, 36, 38, 39, 40, 41, 42, 43, and 44. The Complainant is also the owner of International Registered Trademark No. 1133366 in respect of the same figurative device, registered on March 23, 2012, in respect of the same international classes. The said mark is designated in respect of nine jurisdictions.

The disputed domain name was registered on August 12, 2021. It does not resolve to a website. Nothing is known about the Respondent, other than that it has supplied a correspondence address in Nigeria.

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

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

In summary, the Complainant contends as follows:

##### **Identical or confusingly similar**

The disputed domain name is confusingly similar to the Complainant's MONNAIE DE PARIS trademark in that the only difference is a change of the verbal designation "monnaie" to "monneia". This will reflect badly on the Complainant as the disputed domain name points to an inactive website.

##### **Rights or legitimate interests**

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been commonly known by the disputed domain name, nor is making a legitimate noncommercial or fair use thereof, nor is there any evidence of the Respondent's use of or demonstrable preparations to use the disputed domain name, or a name corresponding thereto, in connection with a *bona fide* offering of goods or services.

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<sup>1</sup> The Complainant provided very little information about itself in the Complaint, although it offered a link to its official website, from which the Panel was able to identify a wealth of material establishing the Complainant's substantial history and prominent commercial activities. With regard to the Panel conducting limited factual research into matters of public record, such as consulting relevant publicly available websites including the Complainant's official website, see section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

### **Registered and used in bad faith**

The disputed domain name was registered primarily for the purpose of disrupting the business of a competitor. The choice of a verbal name as close as that of the Complainant's domain name cannot be the result of chance. The change of the verbal designation "monnaie" to "monneia" is not likely to reduce confusion in the mind of the consumer. The use of this confusingly similar domain name can only be voluntary in order to lead consumers to believe that the disputed domain name is linked to the Complainant. This can reflect badly on the Complainant, since the site is not accessible.

### **B. Respondent**

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

## **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

- (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**

The first element inquiry under the Policy, which functions primarily as a standing requirement, is usually conducted in two steps. First, the Panel examines whether the Complainant has UDRP-relevant rights in a trademark, either registered or unregistered. Secondly, any identified trademark is compared to the disputed domain name, usually on a straightforward side-by-side basis, and typically disregarding the Top-Level Domain ("TLD") (in this case, ".com") as being required for technical reasons only. The purpose of the comparison is to identify whether the trademark is recognizable in the disputed domain name. If the mark is noted to be identical to the disputed domain name concerned, identity will generally be found, and if it is otherwise recognizable therein, confusing similarity will typically be found.

In the present case, the Panel is satisfied that the Complainant has UDRP-relevant rights in its registered trademark for the mark MONNAIE DE PARIS as described in the factual background section above. This mark is figurative in nature, consisting of both word and design elements. The latter elements are typically disregarded for the purpose of assessing identity or confusing similarity under the Policy unless they comprise the dominant portion of the relevant mark, such that they effectively overtake the textual elements in prominence (see section 1.10 of the [WIPO Overview 3.0](#)). In the present case, the word elements of the Complainant's mark, MONNAIE DE PARIS, appear under a line-drawn image of the Complainant's building. The Panel does not consider that the design element overtakes the word elements in prominence, and accordingly is satisfied that the word elements are capable of being separated from the design element.

Turning to the comparison exercise, it may be seen that the second level of the disputed domain name is alphanumerically identical to the word elements of the Complainant's mark with the exception of the fact that "monnaie" has been spelled "monneia". The spaces in the Complainant's mark are not present in the disputed domain name but this is of no significance to the comparison as spaces cannot be used in domain names for technical reasons. Notwithstanding the transposition of the letters "aie" to "eia", the Panel finds that the Complainant's mark is recognizable in the disputed domain name.

The Panel furthermore finds the phrase "monneiadeparis" in the disputed domain name to be an intentional

misspelling of the Complainant's mark. This particular transposition of letters may be typed inadvertently by Internet users who are looking for the Complainant's website (particularly those who do not speak French and are unfamiliar with the spelling of "monnaie"). Such an intentional misspelling of a trademark is typically considered by panels to be confusingly similar to the relevant mark for purposes of the first element (see section 1.9 of the [WIPO Overview 3.0](#)).

In the above circumstances, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark and that the Complainant has carried its burden in terms of paragraph 4(a)(i) of the Policy.

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

Paragraph 4(c) of the Policy lists several ways in which the Respondent may demonstrate rights or legitimate interests in the disputed domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

The consensus of previous decisions under the Policy is that a complainant may establish this element by making out a *prima facie* case, not rebutted by the respondent, that the respondent has no rights or legitimate interests in a domain name. In the present case, the Complainant submits that the disputed domain name is a misspelling of its trademark, that the Respondent has not been commonly known by the disputed domain name, is not making a legitimate noncommercial or fair use thereof, and that there is no evidence of the Respondent's use of or demonstrable preparations to use the disputed domain name or a name corresponding thereto in connection with a *bona fide* offering of goods or services. The Panel is satisfied that these submissions are sufficient to establish the requisite *prima facie* case. The burden of production therefore shifts to the Respondent to bring forward evidence of rights or legitimate interests in the disputed domain name.

The Respondent has not engaged with the administrative proceeding, and it has neither answered the Complainant's submissions, nor provided any evidence which might have supported a claim in respect of rights or legitimate interests in the disputed domain name. The Panel has not been able to determine any likely rights or legitimate interests which the Respondent might have claimed had it otherwise participated. The disputed domain name appears to the Panel to take the form of a deliberate misspelling of the Complainant's trademark, sometimes described as "typosquatting". The intentional selection of such a misspelling in the disputed domain name, in the circumstances of the present case, cannot confer rights and legitimate interests upon the Respondent.

In these circumstances, the Panel finds that the Respondent has failed to rebut the Complainant's *prima facie* case and accordingly that the Complainant has carried its burden in respect of paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- “(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

On this topic, the Complainant directs its initial submission to paragraph 4(b)(iii) of the Policy. This, however, is not particularly relevant in the circumstances of the present case as there is no evidence before the Panel that the Respondent is a competitor of the Complainant. Nevertheless, the Complainant also makes the general point that the disputed domain name is an intentional misspelling of its MONNAIE DE PARIS trademark, and is designed to confuse consumers. Previous panels under the Policy have found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typographical variants or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)). The fact that the disputed domain name is not configured to resolve to an active website at present does not, of itself, prevent a finding of registration and use in bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

The Complainant is one of France’s oldest institutions, with a history of more than a thousand years behind it. There is no doubt in the Panel’s mind that the Complainant’s name and trademark is famous or at least is widely-known. The Respondent is not affiliated with the Complainant in any way. The disputed domain name appears to target the Complainant’s mark through being an intentional misspelling thereof. The Panel cannot conceive of any use to which the disputed domain name could be put that would not constitute unfair targeting of the Complainant’s mark. Accordingly, the Panel considers that the circumstances of the case point in the direction of registration and use in bad faith.

The composition of the disputed domain name calls for an explanation from the Respondent which is lacking in this case. As noted in the preceding section, the Respondent has not engaged with the administrative proceeding and accordingly has not addressed any of the Complainant’s allegations. Furthermore, the Respondent has failed to set out any alleged good faith motivation for its registration and use of the disputed domain name and the Panel cannot conceive of any suitable explanation which the Respondent might have given had it participated.

In all of these circumstances, the Panel finds that the disputed domain name has been registered and is being used in bad faith, and accordingly that the Complainant has carried its burden in respect of 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 disputed domain name <monneiadeparis.com> be transferred to the Complainant.

*/Andrew D. S. Lothian/*

**Andrew D. S. Lothian**

Presiding Panelist

*/Christophe Caron/*

**Christophe Caron**

Panelist

*/Assen Alexiev/*

**Assen Alexiev**

Panelist

Date: July 19, 2022