

ADMINISTRATIVE PANEL DECISION

Bal du Moulin Rouge v. Domain Administrator, See Privacy Guardian.org /
Doug Powell
Case No. D2022-2720

1. The Parties

The Complainant is Bal du Moulin Rouge, France, represented by Casalonga Avocats, France.

The Respondent is Domain Administrator, See Privacy Guardian.org, United States of America (“United States”) / Doug Powell, United States.

2. The Domain Name and Registrar

The disputed domain name <wwwmoulinrouge.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 25, 2022. On July 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 26, 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 August 3, 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 amended Complaint on August 3, 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 the Respondent of the Complaint, and the proceedings commenced on August 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 31, 2022. On August 25, 2022, the Respondent contacted the Center, stating that it did not plan on renewing the disputed domain name. The Center replied on August 26, 2022, asking the Complainant if it wanted to pursue a settlement with the Respondent. The Complainant did not reply.

Other than the August 25, 2022 email, the Respondent did not submit any response. Accordingly, the Center notified the Commencement of Panel Appointment on September 13, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on September 20, 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

The Complainant in this proceeding is BAL DU MOULIN ROUGE, a public limited company.

The Complainant is known worldwide under the name “Moulin Rouge”. The Complainant is one of the best known as the spiritual birthplace of the modern form of the can-can dance. Today, the Moulin Rouge is a tourist attraction, offering musical dance entertainment for visitors from around the world. After more than 125 years of shows, the Moulin Rouge has indubitably become one of the most famous and legendary cabarets in the world.

The Complainant is the owner of the world-famous French trademark MOULIN ROUGE, which has been in use continuously in France in connection with its famous cabaret since 1889.

The Complainant has operated its website “www.moulinrouge.fr” for over 19 years, displaying historical information about the Company, a description of its services, and a picture/video gallery showcasing the most remarkable shows.

To promote its reputation on the Internet the Complainant has registered numerous domain names, for example:

<moulin-rouge.com> registered since February 9, 1998;
<moulinrouge.com> registered since May 15, 1998;
<moulinrouge.fr> registered since March 23, 1999;
<moulin-rouge.fr> registered since October 27, 1999;
<moulinrougestore.com> registered since September 14, 2009;
<moulin-rouge-store.com> registered since September 14, 2009;
<moulinrougestore.fr> registered since September 14, 2009;
<moulin-rouge-store.fr> registered since September 14, 2009.

The Complainant owns the MOULIN ROUGE mark, which enjoys thorough protection through many registrations.

The Complainant is, *inter alia*, the owner of:

International trademark registration number 1161068 for the MOULIN ROUGE (device) mark, registered on September 17, 2012.

International trademark registration number 1016676 for the MOULIN ROUGE mark, registered on June 12, 2009.

International trademark registration number 613199 for the MOULIN ROUGE mark, registered on February 2, 1994.

French trademark registration number 1311105 for the MOULIN ROUGE mark, registered on May 3, 1983.

The disputed domain name was registered on April 14, 2022.

The <wwwmoulinrouge.com> domain name at the time the Complaint was filed directed to a blog containing various articles related to religion.

The Complainant's trademark registrations predate the registration of the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is almost identical or at least confusingly similar to the renowned MOULIN ROUGE trademark.

The Complainant further states that the Respondent has no rights or legitimate interests whatsoever with respect to the disputed domain name. No license, or authorization of any other kind, has been given by the Complainant to the Respondent to use the MOULIN ROUGE trademark. In addition, the disputed domain name does not include the name of the Respondent (M. Doug Powell) or a name that is otherwise commonly used to identify the Respondent, and nothing in the publicly available WhoIs records indicates that the Respondent is or has been commonly known by the domain name.

Regarding the Respondent's bad faith in registering and maintaining the disputed domain name, the Complainant submits that:

The MOULIN ROUGE is a renowned trademark, and consequently the Respondent was aware of the rights the Complainant has in the MOULIN ROUGE trademark at the time of the registration.

The disputed domain name is composed of the letters "www" concatenated with the Complainant's trademarks without a dot between them, which constitutes a typo-squatting practice.

It is a well-established principle that registration of a domain name that is confusingly similar to a well-known trademark by any entity that does not have a link to that trademark can amount to sufficient evidence of bad faith registration.

Email servers were activated for the disputed domain name. Therefore, the Respondent is able to send and receive emails to and from any address, with the "@wwwmoulinrouge.com" suffix in the Respondent's Sender field. The Complainant thus considers that the Respondent could use this suffix in any way, and notably in order to send fraudulent emails, thus increasing the likelihood of a phishing attempt.

The Respondent owns several typo-squatting domain names that include renowned trademarks, which redirect to a website in order to promote religion and the Bible. They include the following: <nexflix.co>, <nexflix.com>, <wwwbraun.com>, <wwwliverpool.com>, <wwwnorthface.com>, <wwwphillips.com>, <wwwtnt.com>, and <wwwhotmail.com>.

The Complainant thus concludes that the Respondent tried to benefit from the Complainant's world famous trademark, and that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

In fact on August 25, 2022, in response to the communication informing the parties of the present proceeding sent by the Center via courier, the Respondent sent an email to the Center saying that the disputed domain name had been removed from his servers, that he had already planned not to renew it, and that he was not interested in fighting over a domain name he was already planning to abandon.

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i) – (iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (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 Complainant has established rights in the renowned MOULIN ROUGE trademark.

The disputed domain name, which is almost identical to the Complainant's trademark, differs from the latter by the addition of the letters "www" at the beginning of the disputed domain name.

This slight difference in the disputed domain name do not prevent a finding of confusing similarity with the MOULIN ROUGE trademark.

Indeed, it appears to be a clear case of typo-squatting, where the Respondent is trying to take advantage from typing errors made by Internet users when looking for a desired name, in this case the Complainant's trademark.

Therefore, the Panel finds the disputed domain name to be confusingly similar to the MOULIN ROUGE trademark in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. Moreover, the Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name. In fact, in his short email to the Center the Respondent simply affirmed that he had removed the disputed domain name from his servers and that he was not interested in fighting over a domain name he was not planning to keep.

The use of the domain name to resolve to a blog containing various articles related to religion which are not in relation with the terms "moulin" or "rouge" does not constitute a *bona fide* use of the domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the MOULIN ROUGE mark when it registered the disputed domain name.

In fact, the Complainant's MOULIN ROUGE trademark is a renowned trademark. It has been registered and used for many decades and is a renowned trademark worldwide. Hence, the registration of the disputed domain name does not seem to be a coincidence, and thus it indicates that the Respondent knew of the Complainant's trademark and intentionally intended to create an association with the Complainant and its business at the time of registration of the disputed domain name. The typo-squatting nature of the disputed domain name further supports this inference.

In this regard, it should be noted that, as pointed out by the Complainant, the Respondent owns several domain names, which are typo-squatted versions of renowned trademarks. This reinforces the belief that the registration of the disputed domain name is not a coincidence but rather is part of a planned scheme of the Respondent to target renowned trademarks.

Inference of bad faith can also be found in the failure to respond to the Complainant's contentions, and in the Respondent's lack of any rights or legitimate interests in the disputed domain name.

Finally, the Respondent's informal communication sent to the Center on August 25, 2022, can be seen as further inference of a lack of legitimate interests, and as an implicit recognition of the Complainant's claims.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith.

Therefore, the Complainant has satisfied 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 <wwwmoulinrouge.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: September 29, 2022