

ADMINISTRATIVE PANEL DECISION

Bal Du Moulin Rouge v. Media Village B.V.
Case No. DNL2022-0025

1. The Parties

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

The Respondent is Media Village B.V., Netherlands.

2. The Domain Name and Registrar

The disputed domain name <moulinrouge.nl> (the “Disputed Domain Name”) is registered with SIDN through Media Village B.V.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 30, 2022. On June 1, 2022, the Center transmitted by email to SIDN a request for registrar verification in connection with the Disputed Domain Name. On the same day, SIDN transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center verified that the Complaint satisfied the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 13, 2022. In accordance with the Regulations, article 7.1, the due date for Response was July 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 4, 2022.

The Center appointed Thijs van Aerde as the panelist in this matter on July 21, 2022. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

The Complainant operates the well-known theatre “Moulin Rouge” offering musical dance entertainment and cabaret performances. Established in 1889, the Complainant is the oldest existing Parisian cabaret and a

popular tourist attraction. Apart from its principal domain name <moulinrouge.fr>, registered on March 23, 1999, the Complainant holds various domain name registrations, including <moulinrouge.com>, <moulin-rouge.fr>, and <moulin-rouge.com>.

The Complainant holds a number of trademark registrations including:

- Benelux trademark MOULIN ROUGE, registered on September 10, 2010, registration no. 884040; and
- European Union Trade Mark MOULIN ROUGE, registered on December 23, 2009, registration no. 008346629,

hereinafter jointly referred to as the “Trademarks”.

According to the information provided by SIDN, the Respondent registered the Disputed Domain Name on October 8, 2021. At the time of this Decision, the Disputed Domain Name resolved to a website offering the Disputed Domain Name for sale.

5. Parties’ Contentions

A. Complainant

The Complainant asserts that the Disputed Domain Name is identical to the Trademarks to which the Complainant has rights.

The Complainant argues that the Respondent has no rights to or legitimate interests in the Disputed Domain Name. According to the Complainant, there is no evidence that the Respondent has been commonly known by the Disputed Domain Name. The Respondent was never granted any license, permission, or authorization to use the Complainant’s Trademarks.

The Complainant contends that the use and registration of the Disputed Domain Name by the Respondent is in bad faith. Given the renown of the Trademarks, the Complainant asserts that there is no doubt that the Respondent knew or should have known of their existence. Further, the Complainant asserts that the Respondent misleadingly makes Internet users believe that they will find the Complainant’s official Dutch website at the Disputed Domain Name. Instead, the Disputed Domain Name redirects Internet users to a website indicating that the Disputed Domain Name is for sale. According to the Complainant, this conduct demonstrates that the Respondent is taking unfair advantage of the efforts and investments made by the Complainant promoting its Trademarks.

B. Respondent

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

6. Discussion and Findings

Pursuant to article 2.1 of the Regulations the Complainant must prove each of the following three elements:

a. the Disputed Domain Name is identical or confusingly similar to:

I) a trademark or trade name protected under Dutch law in which the Complainant has rights; or

II) a personal name registered in the General Municipal Register (*Gemeentelijke Basisadministratie*) of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which the Complainant undertakes public activities on a

permanent basis; and,

b. the Respondent has no rights to or legitimate interests in the Disputed Domain Name; and,

c. the Disputed Domain Name has been registered or is being used in bad faith.

As the Respondent has not filed a response, the Panel shall rule on the basis of the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or in fact.

A. Identical or Confusingly Similar

The Complainant established that it has rights in the Trademarks, registered in the Benelux and the European Union and thus protected under Dutch law.

The Disputed Domain Name comprises the Trademarks in their entirety. The Panel therefore finds that the Disputed Domain Name is identical to the Trademarks. In accordance with established case law under the Regulations, the Top-Level Domain (“TLD”) “.nl” may be disregarded when assessing the similarity between the domain name and the relevant trademark (see, *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#)).

The Complainant has satisfied the requirement of article 2.1(a) of the Regulations.

B. Rights or Legitimate Interests

A respondent generally is in the best position to demonstrate rights to or legitimate interests in a domain name under the Regulations. Section 2.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)¹ sets out that after a complainant makes a *prima facie* case, the burden of production on this element shifts to the respondent to come forward with relevant evidence of its rights to or legitimate interests in the domain name.

Based on the record presented, the Panel finds that there is no reason to suggest that the Respondent is commonly known by the Disputed Domain Name under article 3.1(b) of the Regulations. This is further substantiated by the fact that the Disputed Domain Name resolves to a website offering the Disputed Domain Name for sale, for an amount of EUR 1,849 excluding VAT. This use does not indicate that the registrant made demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods and services under article 3.1(a) of the Regulations, nor can it be considered a legitimate noncommercial use of the Disputed Domain Name under article 3.1(c) of the Regulations.

The Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and that the Respondent has failed to rebut this case.

The Panel concludes that the Complainant has satisfied the requirement of article 2.1(b) of the Regulations.

C. Registered or Used in Bad Faith

The Complainant’s rights in the Trademarks predate the registration of the Disputed Domain Name by almost 12 years. Moreover, the Panel notes that the Complainant’s global renown dates back many decades before the registration of the Disputed Domain Name.

¹ In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy (“UDRP”), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

The Disputed Domain Name is identical to the Trademarks and additionally to, the Complainant's domain names <moulinrouge.fr> and <moulinrouge.com>, discounting the TLDs ".fr" and ".com". This raises the risk of potential confusion among Internet users seeking the Complainant's official Dutch website. Considering the Complainant's fame, the Panel finds that the Disputed Domain Name's offering for sale strongly suggests that the Respondent registered the Disputed Domain Name primarily for the purpose of selling, renting or transferring it to the Complainant or to the Complainant's competitors for valuable consideration in excess of the cost of registration, pursuant to article 3.2(a) of the Regulations.

Based on the foregoing, the Panel considers it apparent that the Respondent was aware of the Complainant and the Trademarks and registered the Disputed Domain Name with deliberate intent to create an impression of an association with the Complainant. The Panel therefore finds the Respondent's attempt to sell the Disputed Domain Name to be in bad faith.

The Panel concludes that the Respondent has registered and uses the Disputed Domain Name in bad faith. Consequently, the requirement of article 2.1(c) of the Regulations has also been met.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the domain name <moulinrouge.nl> be transferred to the Complainant.

/Thijs van Aerde/

Thijs van Aerde

Panelist

Date: August 4, 2022