

ADMINISTRATIVE PANEL DECISION

Bal du Moulin Rouge v. Name Redacted
Case No. D2024-2177

1. The Parties

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

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 28, 2024. On May 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 28, 2024, 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 (Registration Private, Domains by Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 29, 2024, 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 May 31, 2024.

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”).

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 21, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on July 2, 2024. 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, established in 1889 and known worldwide under the name "Moulin Rouge", is a legendary and sophisticated Paris cabaret, and operates as a theater for dance parties, entertainment, and receptions offering its services and facilities to groups, companies and individuals.

The Complainant has inspired numerous movies starting since 1922; was immortalized by the painter Henri de Toulouse-Lautrec; and many international stars such as Ella Fitzgerald, Edith Piaf, Frank Sinatra and Elton John have performed on stage at the Moulin Rouge.

The Complainant holds worldwide trademark registrations for MOULIN ROUGE, such as the following:

- the International Trademark registration number 446194 for MOULIN-ROUGE (word), registered on July 17, 1979 designating many countries worldwide, for goods and services in International classes 3, 41; and
- the European Union trademark registration number 010841567 for MOULIN ROUGE PARIS (stylized), filed on April 26, 2012 and registered on September 24, 2012, for goods and services in International classes 3, 4, 9, 11, 14, 16, 18, 20, 21, 24, 25, 26, 28, 29, 30, 32, 33, 41 and 43.

The Complainant holds domain names incorporating the MOULIN ROUGE mark, such as <moulin-rouge.com> registered since February 9, 1998, <moulinrouge.com>, or <moulinrouge.fr>.

The international reputation of the Complainant's mark is also confirmed by numerous UDRP decisions. See *Bal du Moulin Rouge v. David Millar*, WIPO Case No. [D2024-0877](#) or *Bal du Moulin Rouge v. Bing Liu*, WIPO Case No. [D2023-0848](#).

The disputed domain name was registered on September 27, 2022, and, at the time of filing of the Complaint, it was inactive and resolved to an error page.

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 it has invested millions of euros in the worldwide promotion of the Moulin Rouge Theater and its universe for more than a century and the MOULIN ROUGE trademark is well-known worldwide in the field of theater, musical entertainment and for derived products; the disputed domain name is identical or confusingly similar to its trademark, adding to the MOULIN ROUGE trademark the common word "tickets", which will increase the confusing similarity and will falsely suggest that the Respondent is linked to the Complainant, designating one of its activities, i.e., selling tickets for its shows; that the Respondent has no rights or legitimate interests in the disputed domain name; moreover the right to use the Complainant's mark, as a basis for a domain name, requires an express authorization which the

Respondent does not hold; that the Respondent registered and is using the disputed domain name in bad faith, since the MOULIN ROUGE trademarks have been extensively used for more than one century in the field of theater and musical entertainment and therefore it is highly renowned worldwide; and the Internet users may believe that the disputed domain name is linked to the Complainant's official website and such use is intended to redirect traffic from the Complainant's website.

In its amended Complaint and according to Annex 13 thereto, the Complainant suspects that the Respondent may be a cybersquatter and has usurped the identity of a celebrity or, alternatively, uses an homonym; and, conducting a reverse Whois search for the name of the Respondent revealed by the Registrar verification, it resulted more than 800 domain names registered in its name, including names of celebrities and well-known trademarks.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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.

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

Although the addition of other term here, "tickets", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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 replied to establish any rights or legitimate interests and therefore it 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 Panel notes that the composition of the disputed domain name, which combines the Complainant's famous trademark with the generic term "tickets", suggests an implied affiliation with the trademark owner, such as the activity of selling tickets for the Complainant's entertainment services. Panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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, the Panel notes that the disputed domain name was registered in bad faith, with knowledge of the Complainant, its trademark and business, particularly because the Complainant's trademark predates the registration of the disputed domain name with more than four decades and the Complainant's trademark is well-known worldwide.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

At the time of filing the Complaint, the disputed domain name directs towards an inactive page.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the international reputation of the Complainant's trademark; the composition of the disputed domain name; the Respondent's failure to respond to the present proceedings, and finds that, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Paragraph 4(b)(ii) of the Policy provides another circumstance of bad faith registration and use when the respondent registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. According to Annex 13 to the Amended Complaint, the Respondent holds numerous domain names, some of them containing third parties' trademarks and/or names.

Further, it has been consistently found by previous UDRP panels that the mere registration of a domain name that is identical or confusingly similar to a third party's famous or widely-known trademark can create, by itself, a presumption of bad faith for the purpose of Policy. [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that the Complainant has established the third element 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 <moulinrougetickets.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: July 15, 2024