

ADMINISTRATIVE PANEL DECISION

TUI AG v. Anastazja Autere, Tui cares for people and Bob Mayetch
Case No. D2024-4933

1. The Parties

The Complainant is TUI AG, Germany, internally represented.

The Respondents are Anastazja Autere, Tui cares for people, Spain, and Bob Mayetch, Spain.

2. The Domain Names and Registrar

The disputed domain names <tuicares.com> and <tuimusements.com> are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 28, 2024. On November 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 2, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 December 3, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on December 8, 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 2, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 3, 2025.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on January 20, 2025. 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 is a European travel group company. It was founded in its current form in 1997 and, in 2023, it had around 60,000 employees, a recorded turnover of approximately EUR 20.7 billion, and an operating result of EUR 977 million.

The Complainant is the owner of registered trademarks in the marks TUI, MUSEMENT, TUI MUSEMENT, and TUI CARE FOUNDATION, amongst which:

European Union Trademark No. 002349009 for TUI, registered on August 20, 2004, in International Classes 3, 9, 14, 16, 18, 24, 25, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 41, and 42;

International Trademark No. 1018332 for  TUI, registered on March 4, 2009, in International Classes 3, 4, 5, 6, 8, 9, 11, 12, 14, 16, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 41, 42, 43, 44, and 45, designating, amongst other countries, Antigua and Barbuda, Curaçao, European Union, Montenegro, and Mongolia;

International Trademark No. 1444684 for MUSEMENT, registered on September 24, 2018, in International Classes 35, 38, 39, 41, and 43, designating, amongst other countries, United Kingdom, Türkiye, Switzerland, China, and Russian Federation;

International Trademark No. 1611803 for TUI MUSEMENT, registered on April 8, 2021, in International Classes 39, 41, and 43, designating, amongst other countries, Brazil, Canada, European Union, United Kingdom, Indonesia, Japan, Mexico, Tunisia, Türkiye, Bhutan, Switzerland, China, Cuba, Egypt, Kenya, Morocco, Russian Federation, and Viet Nam;

European Union Trademark No. 015068984 for  TUI CARE FOUNDATION, registered on June 3, 2016, in International Classes 16, 36, and 41.

In addition, the Complainant owns domain names containing the TUI mark, amongst which <tuigroup.com>, <tui.de>, <tui.eu>, <tuicars.com>, <tuihotels.com>, and <tuicruises.com>.

Both disputed domain names were registered on May 29, 2024, well after the Complainant secured rights in the marks. The disputed domain name <tuicare.com> is currently inactive (error page). The dispute domain name <tuimusements.com> resolves to a parking page containing pay-per-click ("PPC") links relating to travel services.

Previously, however, the disputed domain names resolved to websites that prominently displayed the Complainant's trademarks. In particular, on May 29, 2024, the disputed domain name <tuicare.com> resolved to a website promoting "Compassionate Travel Experiences" by "TUICARES" with a link for subscription for more information. The disputed domain name <tuimusements.com> previously resolved to two different websites offering travel services and criticism of the Complainant, one on May 29, 2024 and another on July 5, 2024. The first website uses not only the TUI word trademark on multiple occasions, but also uses the term "TUI musements". The second website, with a different design but similar content

criticizing the Complainant, also prominently featured the TUI figurative trademark. It contained a link to a Facebook page created by the Respondent which also displayed the Complainant's trademarks and logo. This website moreover included a PayPal link for donations to "Help Our Cause". None of the abovementioned websites contained information about the owner of the website, nor any disclaimer that they were not owned or supported by the Complainant.

Finally, as of August 16, 2024, both of the disputed domain names are offered for sale. The price of the disputed domain names has differed over time. Both disputed domain names were listed for approximately EUR 90,000 on August 16, 2024. On November 26, 2024, the price for <tuicare.com> had increased to USD 100,000.18 (around EUR 95,488) and the price for <tuimusements.com> had dropped to USD 65,000 (around EUR 62,093).

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.

With respect to the first element, the Complainant contends that it has rights in the marks TUI, MUSEMENT, TUI MUSEMENT, and TUI CARE FOUNDATION and that the disputed domain names are confusingly similar to these marks. The disputed domain name <tuimusements.com> incorporates the TUI, MUSEMENT, and TUI MUSEMENT trademarks in their entirety and only adds the letter "s" and the generic Top-Level Domain ("gTLD") ".com". The disputed domain name <tuicare.com> incorporates the TUI trademark in its entirety and only adds the word "cares" and the gTLD ".com". Moreover, the dominant (word) part of the TUI CARE FOUNDATION trademark is recognizable in this disputed domain name. Finally, the Complainant claims that the gTLD ".com", featured in the disputed domain names, is not significant in determining whether the disputed domain names are identical or confusingly similar to the trademarks of the Complainant.

Regarding the second element, the Complainant claims that the Respondent lacks rights or legitimate interests in the disputed domain names. The Complainant contends that the Respondent is not using the disputed domain names in connection with a bona fide offering of services or a legitimate noncommercial or fair use and is not making preparations for such use. On the contrary, the Complainant mentions, the disputed domain names are confusingly similar to its trademarks and carry a high risk of implied affiliation. In addition, the disputed domain names previously resolved to websites that prominently displayed the Complainant's trademarks. The Complainant points out that, while the websites contained criticism of the Complainant, they gave the impression that they were offering travel services and were authorized and administered by the Complainant. The Complainant therefore contends that this is not genuine and noncommercial criticism, since the Respondent took advantage of the fame of the Complainant's trademarks and goodwill to increase the traffic of the disputed domain names for personal gain. According to the Complainant, the commercial intentions of the Respondent are further demonstrated by the offering for sale of the disputed domain names for a price in excess of the Respondent's out-of-pocket costs to register them, the PayPal link to "donate" on the version of the website to which <tuimusements.com> resolved in July 2024, and the PPC links relating to travel services on the parking page that the disputed domain name <tuimusements.com> currently resolves to. Finally, the Complainant notes that the Respondent is not known by the words "tuimusements", "tuicare" or by the disputed domain names, has no connection or affiliation with the Complainant or its group, and has not been authorized or licensed by the Complainant to use the Complainant's trademarks or to register any domain name containing its trademarks.

As to bad faith registration, the Complainant contends that the Complainant and their trademarks are so widely well-known, that it is obvious that the Respondent was fully aware of the Complainant and its trademarks when they registered the disputed domain names. Notably, the Complainant points out, a preliminary Internet search would have revealed that the terms "tui", "musement", and "tui care" are

associated with the Complainant and that the trademarks TUI, MUSEMENT, TUI MUSEMENT, and TUI CARE FOUNDATION were also registered and used by the Complainant for several years. Furthermore, the Complainant submits that the disputed domain names are examples of typosquatting since they simply add the letter “s” to the Complainant’s existing domain names <tuimusement.com> and <tuicare.com> and that typosquatting is presumptive evidence of bad faith registration. Regarding bad faith use, the Complainant points to the use of the disputed domain names for websites that feature their trademarks and offer the same services in a clear attempt to create a likelihood of confusion with the Complainant’s trademarks as to the disputed domain names’ source, sponsorship, affiliation, or endorsement. The Complainant notes that the Respondent’s criticism relating to the Complainant on an old version of the website that the disputed domain name <tuimusements.com> resolved to does not change this since it fails the impersonation test. This is further reinforced, according to the Complainant, by the fact that the Respondent also created a Facebook page displaying the Complainant’s trademark and logos, in an attempt to impersonate the Complainant, to which it linked on one of the <tuimusements.com> websites. Moreover, the Complainant points to the current use of the disputed domain name <tuimusements.com> for a parking page containing PPC links relating to travel services, including the use of a trademark belonging to one of the Complainant’s group companies. With respect to the other disputed domain name <tuicares.com>, which is currently inactive, the Complainant relies on the doctrine of passive holding to assert that this should not prevent a finding of bad faith. Finally, the Complainant points out that both disputed domain names are currently being offered for sale for prices that significantly exceed the out-of-pocket costs of the Respondent, and that the Respondent has used privacy services to hide their identity, both further indicators of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Preliminary Issue: Consolidation - Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same person or entity. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant’s request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant’s request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.11.2.

As regards common control, the Complainant has convincingly demonstrated that: (i) the disputed domain names were registered on the same day and only three seconds apart; (ii) the disputed domain names were registered with the same Registrar; (iii) the disputed domain names use the same privacy services (Registration Private, Domains By Proxy, LLC, DomainsByProxy.com); (iv) the disputed domain names have similar naming patterns (they add the letter “s” to the Complainant’s existing domain names <tuimusement.com> and <tuicare.com>); (v) at the time of their registration, both disputed domain names resolved to websites offering travel services and, at the time of filing of this Complaint, both are now inactive; (vi) both disputed domain names are listed for sale at GoDaddy and were listed at exactly the same price on August 15 and August 16, 2024 (EUR 90,958.17 and EUR 91,141.09 respectively); (vii) the registrants have similar contact information since they both provided false addresses in Spain and use the same phone

number; (viii) the website that the disputed domain name <tuimusements.com> previously resolved to contained a link to the website that the other disputed domain name <tuimusements.com> previously resolved to; and (ix) the email address linked to the PayPal account used for donations on the website that the disputed domain name <tuimusements.com> used to resolve to is the registered email address of the other disputed domain name <tuicare.com>.

The Panel believes that these circumstances, in combination with the absence of a response from the disputed domain name registrants, sufficiently indicate that the disputed domain names are under common control. With respect to fairness and equity, since the disputed domain name registrants have not responded to this Complaint and splitting the Complaint would not be beneficial to procedural efficiency, the Panel finds that consolidation of the Complaint would be fair and equitable to all parties concerned and grants the Complainant's request.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

B. 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.

The Complainant has shown rights in respect of the trademarks TUI, MUSEMENT, TUI MUSEMENT, and TUI CARE FOUNDATION for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The TUI CARE FOUNDATION trademark that the Complainant relies on is figurative, however this can also be taken into account to show "rights in a mark" since the dominant portion and textual elements of this trademark are the words "TUI Care Foundation" respectively. It is a consensus view of UDRP panels, with which the Panel agrees, that trademark registrations with design elements can prima facie satisfy the requirement that a complainant shows "rights in a mark" so long as the textual elements are not overtaken. [WIPO Overview 3.0](#), section 1.10.

The entirety of the TUI, MUSEMENT, and TUI MUSEMENT marks are reproduced within the disputed domain name <tuimusements.com>. In addition, the disputed domain name <tuicare.com> reproduces the TUI mark in its entirety. Accordingly, both disputed domain names are confusingly similar to the Complainant's marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

With respect to the disputed domain name <tuimusements.com>, the Panel finds that the addition of the letter "s" does not prevent the confusing similarity. It is clear that the TUI, MUSEMENT, and TUI MUSEMENT marks are still recognizable in the disputed domain name and the addition of the letter "s" can be considered an intentional misspelling of the Complainant's trademarks and the Complainant's domain name <tuimusement.com>. [WIPO Overview 3.0](#), section 1.9.

Similar considerations apply to the disputed domain name <tuicare.com>, which appears to be an intentional misspelling of the Complainant's domain name <tuicare.com>. The TUI trademark is recognizable in the disputed domain name. Although the addition of the term "cares" may bear on assessment of the second and third elements, the Panel finds the addition of this term does not prevent a finding of confusing similarity between the disputed domain name and the TUI trademark. [WIPO Overview 3.0](#), section 1.8 and 1.9. Moreover, the <tuicare.com> disputed domain name is confusingly similar to the TUI CARE FOUNDATION trademark since a dominant portion of this trademark, namely "TUI Care", is recognizable in a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark. [WIPO Overview 3.0](#), section 1.7.

Finally, as for the applicable gTLD ".com", the Panel holds that this can be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

C. 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 names. 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 names such as those enumerated in the Policy or otherwise.

The Panel finds that the Respondent does not use, or has made demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of services and neither makes a legitimate noncommercial or fair use of the disputed domain names. There is a high risk of implied affiliation here since the disputed domain names are confusingly similar to the Complainant’s trademarks and merely pluralized versions of the Complainant’s existing domain names <tuimusement.com> and <tuicare.com>. The overall facts and circumstances of the case do not show a bona fide offering of services or legitimate noncommercial or fair use either. The Panel is required to assess rights or legitimate interests with a view to the circumstances prevailing at the time of the filing of the Complaint. At that time, the disputed domain name <tuicares.com> was no longer in use. The disputed domain name <tuimusements.com> currently resolves to a parking page containing PPC links, which trades off the reputation and goodwill of the Complainant’s trademarks since all PPC links relate to travel services; the core business of the Complainant. The fact that both disputed domain names are currently offered for sale for prices far exceeding the likely out-of-pocket costs of the Respondent, absent evidence from the Respondent to the contrary, further demonstrates the Respondent’s intention to commercially gain from the disputed domain names. [WIPO Overview 3.0](#), sections 2.2, 2.5, 2.6, 2.9, and 2.11.

Moreover, the Complainant contends that the Respondent has not been commonly known by the words “tuimusements”, “tuicares”, or the disputed domain names prior to or after the registration of the disputed domain names or that they own any trademarks or other rights in these marks. The Panel notes that the Respondent failed to respond to the Complaint and the evidence on record therefore does not contain any evidence of the same either. In addition, the Complainant confirmed that the Respondent is not affiliated with the Complainant in any way nor has the Complainant licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant’s trademarks. The Panel has taken note of the Complainant’s confirmation in this regard and has not seen any evidence that would suggest the contrary. Noting the composition of the disputed domain names, in the absence of any license or permission from the Complainant to use its trademarks, no actual or contemplated bona fide or legitimate use of the disputed domain name could reasonably be claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#); and *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

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

D. 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.

The disputed domain names appear to have been registered primarily for the purpose of selling them to the Complainant or a competitor for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the disputed domain names (paragraph 4(b)(i) of the Policy). The evidence on record shows that the Complainant offers both disputed domain names for sale for prices that likely significantly exceed the out-of-pocket costs of the Respondent directly related to them, absent evidence to the contrary from the Respondent. Moreover, as further explained below, it is clear from the composition of the disputed domain names and the content on the websites that the disputed domain name used to resolve to that the Respondent targeted the Complainant and knew of the Complainant's rights.

In addition, the registration of the disputed domain names has clearly been done to attract Internet users by creating a likelihood of confusion with the Complainant's trademarks (paragraph 4(b)(iv) of the Policy). As the Panel found above under the first element, the disputed domain names are confusingly similar to the Complainant's trademarks. Moreover, the disputed domain names previously resolved to websites that prominently displayed the Complainant's trademarks and purported to offer travel services. In particular, on May 29, 2024, the disputed domain name <tuicares.com> resolved to a website promoting "Compassionate Travel Experiences" by "TUICARES" with a link for subscription for more information. The disputed domain name <tuimusements.com> previously resolved to two different websites offering travel services and criticism of the Complainant, one on May 29, 2024 and another on July 5, 2024. The first website uses not only the TUI word trademark on multiple occasions, but also uses the term "TUI musements". The second website, with a different design but similar content criticizing the Complainant, also prominently featured the TUI figurative trademark. It contained a link to a Facebook page created by the Respondent which also displayed the Complainant's trademarks and logo. None of the abovementioned websites contained information about the owner of the website, nor any disclaimer that they were not owned or supported by the Complainant.

The fact that the Respondent criticized the Complainant on the websites that the disputed domain name <tuimusements.com> previously resolved to does not negate this bad faith since the criticism is not genuine and noncommercial. The disputed domain name <tuimusements.com> is confusingly similar to the Complainant's trademarks. Furthermore, the websites it resolved to purported to offer travel services and, due to their design, use of the Complainant's trademarks, and the absence of any disclaimer, created the impression that they were authorized and administered by the Complainant. Moreover, the Respondent's commercial intentions are clearly demonstrated by the fact that both disputed domain names are offered for sale for prices that likely significantly exceed the out-of-pocket costs of the Respondent directly related to them and the use of PPC links relating to travel services on the parking page that the disputed domain name <tuimusements.com> currently resolves to.

It should be noted that 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 also 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.

First of all, the Panel believes that the Respondent knew or, at least, should have known at the time of registration that the disputed domain names are confusingly similar to the Complainant's trademarks. The Complainant's evidence shows that the TUI, MUSEMENT, TUI MUSEMENT, and TUI CARE FOUNDATION trademarks were all registered many years before registration of the disputed domain names in several countries. Furthermore, the Complainant has shown that a preliminary Internet search would have revealed that the Complainant owns the abovementioned trademarks and that the terms "tui", "musement", and "tui care" are associated with the Complainant. The Respondent's knowledge of the Complainant and its trademarks and therefore its registration in bad faith of the disputed domain names

may accordingly also be inferred from these circumstances. [WIPO Overview 3.0](#), section 3.2.2. Moreover, as demonstrated by the Complainant, prior Panels have previously recognized that the Complainant and the TUI trademark are well-known (see: *TUI AG v. Domain Admin / MEHMET ALİ TUNÇ*, WIPO Case No. [D2014-1620](#) and *Tui AG v. Sado Dokmeci*, WIPO Case No. [D2012-1663](#)). Other prior Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), Section 3.1.4.

Second, panels have found that the non-use of a domain name 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 <tuicares.com> 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 distinctiveness and reputation of the Complainant's TUI trademark as well as the composition of the disputed domain name <tuicares.com> and the absence of a response from the Respondent. Finally, the Panel notes the Respondent's use of privacy services to conceal its identity in the Whois data. In light of these circumstances, the Panel finds that the passive holding of the disputed domain name <tuicares.com> does not prevent a finding of bad faith under the Policy.

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 names <tuicares.com> and <tuimusements.com> be transferred to the Complainant.

/Benoit Van Asbroeck/
Benoit Van Asbroeck
Sole Panelist
Date: February 3, 2025