

ADMINISTRATIVE PANEL DECISION

Bal du Moulin Rouge v. Kun Tao

Case No. D2023-0941

1. The Parties

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

Respondent is Kun Tao, China.

2. The Domain Name and Registrar

The disputed domain name <moulinrougecoffee.com> is registered with Hong Kong Juming Network Technology Co., Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 2, 2023. On March 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 3, 2023, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on March 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 27, 2023.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on April 4, 2023. 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

Complainant is known worldwide under the name Moulin Rouge. Moulin Rouge is known as the spiritual birthplace of the modern form of the can-can dance. Complainant offers musical dance entertainment for visitors from around the world. Complainant operates a theater for dance parties, entertainment, and receptions and offers its services and facilities to groups, companies and individuals.

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.

Complainant owns the following trademarks:

International trademark registration No. 1161068 for MOULIN ROUGE and Design dated September 17, 2012 and registered for products and services in classes 3, 4, 9, 11, 14, 16, 18, 20, 21, 24, 25, 26, 28, 29, 30, 32, 33, 41, and 43 (duly renewed). This trademark designates China, among many other countries;

International trademark registration for MOULIN ROUGE No. 1016676 registered on June 12, 2009 in classes 3, 9, 11, 14, 16, 18, 20, 21, 24, 25, 32, 33, 41 and 43 (duly renewed). This trademark designates China, among many other countries;

International trademark registration for MOULIN ROUGE No. 613199 registered on February 2, 1994 in class 33 (duly renewed);

French trademark registration MOULIN ROUGE No. 1311105 registered on May 3, 1983 in classes 1 - 45 (duly renewed).

To promote its reputation on the Internet Complainant registered numerous domain names including:

- <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;
- <moulinrougecafe-paris.com> registered since February 8, 1998;
- <le-moulin-rouge.cafe> registered since July 7, 2015;
- <lemoulinrouge.cafe> registered since July 7, 2015;
- <moulin-rouge.cafe> registered since July 7, 2015;
- <moulinrouge.cafe> registered since July 7, 2015.

The disputed domain name was registered on April 18, 2022 and used to resolve to a login page of an online betting site written in Chinese. At the time of this Decision, it does not resolve to an active website.

5. Parties' Contentions

A. Complainant

Complainant's trademark is identically reproduced within the disputed domain name <moulinrougecoffee.com>. The addition of the word "coffee" to Complainant's trademark will increase the confusing similarity and will falsely suggest that Respondent is linked to Complainant, all the more so it designates one of its activities.

The likelihood of confusion between Complainant's trademarks and the domain name is enhanced by the well-known character of the trademark MOULIN ROUGE.

Complainant has no relationship whatsoever with Respondent. No license, permission nor authorization to use the wording MOULIN ROUGE was ever granted to Respondent by the Complainant.

Indeed, Complainant has never consented to Respondent's use and reservation of its trademarks in any manner, including in connection with the disputed domain name, which reproduces Complainant's registered trademarks. The right to use such mark as a basis for domain names requires an express authorization.

The disputed domain name does not include the name of Respondent (Kun Tao) or a name that is otherwise commonly used to identify Respondent, and nothing in the publicly available Whois records indicates that Respondent is or has been commonly known by the disputed domain name.

There is no doubt that Respondent knew or should have known about the existence of Complainant's trademarks. Indeed, Complainant's trademarks are notably registered in a large number of countries including China where Respondent is located.

Respondent took clearly an unfair advantage of the efforts and investments made by Complainant for many years to promote its musical shows and derived products.

Internet users may falsely believe that <moulinrougecoffee.com> is Complainant's official website and they would be right to expect finding:

- Information related with Complainant or
- Its official website, or
- Its commercial website, or
- Any information/product/services related to the MOULIN ROUGE bar.

Instead, the disputed domain name <moulinrougecoffee.com> does not redirect to any content.

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 relationship to that mark can amount to sufficient evidence of bad faith registration and use.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Complainant has demonstrated it owns registered trademark rights in the MOULIN ROUGE trademark in France and throughout the world.

The MOULIN ROUGE trademark is clearly recognizable in the disputed domain name, and the generic Top Level Domain ("gTLD") ".com" is typically disregarded under the first element confusing similarity test. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions Third Edition ("[WIPO Overview 3.0](#)"); see also, *Helpful Things, LLC v. Withheld for Privacy Purposes / Sirikwan Burnett*, WIPO Case No. [D2021-1495](#). The addition of the term "coffee" does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

Accordingly, for the purposes of the Policy, the disputed domain name is confusingly similar to a mark in which Complainant has rights.

B. Rights or Legitimate Interests

Complainant has presented a *prima facie* case that Respondent has no rights or legitimate interests in respect of the disputed domain name and has not been commonly known by the disputed domain name. The fact that the Respondent obtained the disputed domain name decades after the Complainant had begun using its globally famous MOULIN ROUGE mark indicates that the Respondent sought to piggyback on the mark for illegitimate reasons.

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, Respondent has provided no evidence of any rights or legitimate interests in the disputed domain name. In the absence of any evidence rebutting Complainant's *prima facie* case indicating Respondent's lack of rights or legitimate interests in respect of the disputed domain name, the Panel finds that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered decades after Complainant first registered and used its MOULIN ROUGE marks. The evidence provided by Complainant with respect to the extent of use and global fame including in China of its MOULIN ROUGE marks combined with the absence of any evidence provided by Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the disputed domain name was registered, Respondent undoubtedly knew of Complainant's widely-known MOULIN ROUGE marks..

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos 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 disputed domain name used to resolve to a website that claimed to offer betting services. This use falls in the category of paragraph 4(b)(iv) of the Policy which is evidence of bad faith.

The Panel finds that the only plausible basis for registering and using the disputed domain name is for illegitimate and bad faith purposes.

In addition, in view of section 3.3 of the [WIPO Overview 3.0](#), the current inactive state of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding.

Accordingly, the Panel finds that 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 <moulinrougecoffee.com> be transferred to Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: April 18, 2023