

## **ADMINISTRATIVE PANEL DECISION**

SEB S.A. v. Sophia Jamoro, My Store, Haliya Ordonez, Moulinex, Host Master, Transure Enterprise Ltd.

Case No. D2023-3052

### **1. The Parties**

The Complainant is SEB S.A., France, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondents are Sophia Jamoro, My Store, Netherlands (Kingdom of the) ("First Respondent"), Haliya Ordonez, Moulinex, Netherlands (Kingdom of the) ("Second Respondent"), and Host Master, Transure Enterprise Ltd, United States of America ("Third Respondent").

### **2. The Domain Names and Registrars**

The disputed domain name <moulinex-promo.com> is registered with <Above.com>, Inc. (the "First Registrar").

The disputed domain names <moulinexpromo.com> and <promo-moulinex.com> are registered with Tucows Inc. (the "Second Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 17, 2023. On July 17, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On July 18, 2023 and July 21, 2023, the First Registrar and Second Registrar respectively 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 (Contact Privacy Inc. Customer 0167598178, Contact Privacy Inc. Customer 0167536575, and Registrant Information Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 21, 2023 providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 26, 2023.

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 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 25, 2023.

The Center appointed Manuel Moreno-Torres as the sole panelist in this matter on September 1, 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**

The Complainant is a French corporation doing business in kitchen appliances. The Complainant employs 33,000 people and has a presence across nearly 150 countries. The Complainant also maintains 40 industrial sites along with 1,300 retail stores and holds over 400 patents. In 2021, the Complainant reported sales of EUR 8,059 million and net income of EUR 454 million.

Moulinex, SA is a corporation owned by the Complainant since 2001 which was incorporated in 1956 and initially launched a series of food processors that turned the company into a world leader in the sector.

The Complainant owns a number of trademarks registrations in different jurisdictions for MOULINEX. By way of example in the European Union Intellectual Office with registration number 000188771 registered on October 23, 1998, and the United States Patent and Trademark Office with registration number 5952731 registered on January 7, 2020.

The Complainant owns a portfolio of domain names in connection to the mark MOULINEX. As such: <moulinex.com> registered on February 15, 1996, or <moulinex.usa> registered on June 7, 2002.

The disputed domain names were registered on the following dates: <promo-moulinex.com> on June 14, 2023; <moulinexpromo.com> on June 21, 2023; and <moulinex-promo.com> on June 29, 2023. The first two domains resolved to an exact replica of Complainant's websites including its logos and trademarks, currently are inactive. The latter redirects to a "pay-per-click" (PPC) site with links to competitors' websites of the Complainant.

#### **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 asserts that the second Respondent, Haliya Ordonez, provided false contact information and, the third Respondent, Transure Enterprise, Ltd, is being involved in a number of UDRP cases before which provides evidence of the pattern of cybersquatting in which Respondent is engaging.

Further, the website to which the disputed domain names resolved sought to take advantage of the fame of the Complainant's trademark for personal gain. Thus, fails to constitute *bona fide* offering of goods pursuant or fair use pursuant paragraph 4(c)(i) and (iii).

##### **B. Respondent**

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy 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;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a substantive Response. This dispute resolution procedure is accepted by the domain name registrant as a condition of registration.

### A. Procedural issue: consolidation of multiple respondents

The panel looks at *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#) where the learned panelist reviewed the relevant UDRP decisions in relation to consolidation.

In the present case, each of the disputed domain names incorporate the MOULINEX trademark in their entirety as well as the “promo” term. All three disputed domain names were registered in a short period of time (15 days) and all registrants used a privacy service.

The Panel also notes that the contact details for the Respondent in <moulinexpromo.com> and <promo-moulinex.com> are apparently false as the Panel has checked through a “map service” in the Internet and the Respondent for <moulinex-promo.com> is a sophisticated cybersquatter as set out above.

The record shows that the Complainant has been the target of common conduct based on the registration and use of the disputed domain names and that such conduct clearly affects the Complainant’s rights in the MOULINEX mark.

The Complainant has *prima facie* fulfilled the requisite criteria for consolidation, and the Respondents had the opportunity, but did not object the requested consolidation.

The Panel finds that the Complainant has established that the registration of the disputed domain names was a concerted act. That is to say, the disputed domain names are subject to common ownership or control which give reason for consolidation in terms of paragraph 3 (c) and 10(e) of the Rules.

In light of the above, the Respondents may be referred to collectively as the Respondent hereafter.

### 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

Based on the available record, the Panel finds 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 entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, “promo” and a hyphen in two of the disputed domain names may bear on assessment of the second and third elements, the Panel finds the addition of such term or hyphen do not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

### **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.

While 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 often impossible 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. 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 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.

Panels have held that the use of a domain name for illegal activity (e.g., the impersonation/passing off or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Neither the use of PPC give rise to legitimate interest. See [WIPO Overview 3.0](#) section 2.9.: “panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users”.

Further, the Panel also notes that the composition of the disputed domain names carry a risk of implied affiliation with the Complainants’ MOULINEX trademark that cannot constitute fair use. See section 2.5.1. [WIPO Overview 3.0](#).

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.

In the present case, the Panel notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark.

Besides, the Respondent has engaged in a pattern of registering domain names targeting trademarks from many jurisdictions around the world and being part in almost 90 UDRP cases before this case that matches with paragraph 4(b) (ii) of the Policy.

Further, the Respondent's conduct demonstrates the Respondent's knowledge of the Complainant and the Complainant's trademarks. The website included the Complainant's logo in the two first disputed domain name. Likewise, <moulinex-promo.com> use into a PPC site denotes previous knowledge of the Complainant. Therefore, and on balance of probabilities, the Respondent targeted the Complainant's MOULINEX trademark because he knew or should have known about the Complainants at the moment of the registration of the disputed domain names.

Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The reproduction of the Complainant's intellectual rights in the corresponding website for <moulinexpromo.com> and <promo-moulinex.com> support a finding of bad faith use.

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 record, the Panel finds the current non-use of the disputed domain names, namely, <moulinexpromo.com> and <promo-moulinex.com> does not prevent a finding of bad faith in the circumstances of this proceeding.

Moreover, a finding of bad faith use is met with "automatically" generated pay-per-click links as it happens in the <moulinex-promo.com>. See [WIPO Overview 3.0](#), section 3.5.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

The Panel also finds that the Respondent employed a privacy or proxy service merely to avoid being notified of a UDRP proceeding filed against and has provided false contact information which is indication of bad faith.

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

## 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, <promo-moulinex.com>, <moulinexpromo.com> and <moulinex-promo.com> be transferred to the Complainant.

*/Manuel Moreno-Torres/*

**Manuel Moreno-Torres**

Sole Panelist

Date: September 15, 2023