

## **ADMINISTRATIVE PANEL DECISION**

Société d'Exploitation de la Tour Eiffel - SETE v. Mutti Marinella  
Case No. D2024-0793

### **1. The Parties**

The Complainant is Société d'Exploitation de la Tour Eiffel - SETE, France, represented by Alain Bensoussan Avocats, France.

The Respondent is Mutti Marinella, Japan.

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

The disputed domain names <eiffel-paris.info> and <eiffel-paris.net> are registered with NameSilo, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 21, 2024. On February 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 23, 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 (PrivacyGuardian.org, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 26, 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 March 4, 2024.

On February 26, 2024, the Center informed the parties, in French and English, that the language of the registration agreements for the disputed domain names is English. On March 4, 2024, the Complainant submitted the Complaint translated into English.

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 March 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 2, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on April 4, 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 is a French company founded on June 7, 2005, to operate as a local public company. It has entered into a public service delegation agreement with the City of Paris, granting it the responsibility to manage, maintain and promote the Eiffel Tower, the iconic monument owned by the City of Paris.

Amongst the Complainant's obligations, it is required to "pursue an active policy of protecting the commercial and/or industrial intellectual property relating to the Eiffel Tower, in particular by registering all names, domain names, logos and images or trademarks that it may create" as well as to "ensure protection of registered trademarks", being the Complainant entitled to use, on an exclusive basis, "all of the Eiffel Tower's distinctive elements such as its commercial name, logo, graphic charter, trademarks, domain names, website, photographic and/or audiovisual reproductions".

In addition to the domain names <eiffel-tower.com>, <eiffel-tower.paris> and <toureiffel.paris>, the Complainant is the owner, amongst others, of the European Union Trademark Registration No. 005771852 for the word and device mark LATOUREIFFEL, registered on March 4, 2008, successively renewed, in classes 35, 38, 39, 41 and 43.

The Complainant is also the exclusive licensee of more than a dozen trademark registrations comprising the EIFFEL sign, amongst which:

- French Trademark Registration No. 1310358 for the word mark TOUR EIFFEL, registered on May 24, 1985, successively renewed, in classes 3, 4, 5, 8, 10, 11, 13, 14, 15, 16, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 38, 39 and 41; and
- French Trademark Registration No. 3968414 for the word mark EIFFEL TOWER, registered on October 11, 2013, successively renewed, in classes 3, 4, 6, 8, 9, 11, 13, 14, 16, 18, 19, 20, 21, 22, 24, 25, 28, 29, 30, 32, 33, 34, 35, 39, 41 and 43.

Both disputed domain names were registered on November 7, 2023, and presently do not resolve to active webpages. In the past the disputed domain name <eiffel-paris.info> was used in connection with a webpage that reproduced the Complainant's official website and was used to collect Internet users' personal data and bank details.

#### **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 names.

Notably, the Complainant contends that the disputed domain names reproduce the distinctive and well-known sign EIFFEL and the geographical term "paris", these two terms being separated by a hyphen, what

does not reduce the likelihood of confusion with the Complainant's trademarks but rather emphasize the dominant element of the earlier trademark, increasing the likelihood of confusion thereof.

As to the absence of rights or legitimate interests, the Complainant argues that the Respondent, who appears to be located in Japan and who sought to conceal its true identity by using a privacy protection service:

- a. has not been entrusted with any public service by the City of Paris;
- b. has no connection with the Complainant;
- c. has not been authorized by the Complainant or the City of Paris to register (or operate) the disputed domain names;
- d. is not the owner of any trademark incorporating the EIFFEL sign according to the WIPO Trademarks database; and
- e. has used the disputed domain name <eiffel-paris.info> in connection with a website impersonating the Complainant, what does not characterize a bona fide offering of goods or services under the Policy.

With regards to the bad faith registration and use of the disputed domain names, the Complainant asserts that the EIFFEL sign is so well-known throughout the world and deeply associated with the City of Paris that, also taking into account the use made of one of the disputed domain names, the Respondent was evidently aware of the Complainant when registering them. As to the use made of the disputed domain names, the Complainant produced evidence that the <eiffel-paris.info> disputed domain name resolved to a webpage that mimicked the Complainant's official website as well as contained links to sections of the Complainant's official website in an attempt to pass off as the Complainant so as to collect users' personal data and bank details, being the other disputed domain name passively held.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets forth the following three requirements which the Complainant must meet in order for the Panel to order the transfer of the disputed domain names:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain names.

### **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 that the relevant part of the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of other terms “paris” and a hyphen may bear on assessment of the second and third elements, the Panel finds the addition of such terms does 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.

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 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 Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain names. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a prima facie case against the Respondent.

In that sense, the Panel notes that the Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names, indeed stating that the Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent, whether express or implied, to use the Complainant’s trademarks in the disputed domain names or in any other manner.

Also, the lack of evidence as to whether the Respondent is commonly known by the disputed domain names or the absence of any trademarks registered by the Respondent corresponding to the disputed domain names, corroborates the indication of an absence of rights or legitimate interests in the disputed domain names.

The past use of one of the disputed domain names in connection with a website that impersonated the Complainant cannot characterize under this Panel’s view a bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.13.1.

Therefore, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain names. The second element of the Policy has also been met.

### **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.

The registration and use of the disputed domain names in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent's use of one of the disputed domain names to impersonate the Complainant;
- (ii) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain names, not having submitted a response;
- (iii) the well-known status of the Complainant's trademarks;
- (iv) the nature of the disputed domain names (associating the relevant portion of the Complainant's trademark with the city where it is located), and the Respondent's likely intention to unduly profit from the value of the Complainant's trademark, suggest rather a clear indication of the Respondent's registration and holding of the disputed domain names in bad faith, with the implausibility of any good faith use to which the disputed domain names may be put;
- (v) the Respondent's failure to respond to this procedure;
- (vi) the Respondent's choice to retain a privacy protection service so as to conceal its true identity; and
- (vii) the indication of what appears to be false or incomplete contact details, not having the Center been able to deliver the Written Notice to the address indicated in the WhoIs.

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 <eiffel-paris.info> and <eiffel-paris.net> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: April 11, 2024