

ADMINISTRATIVE PANEL DECISION

Raphaëlle Giordano v. Veline Go, Alexis Group
Case No. D2024-4270

1. The Parties

The Complainant is Raphaëlle Giordano, France, represented by IP Twins, France.

The Respondent is Veline Go, Alexis Group, Cambodia.

2. The Domain Name and Registrar

The disputed domain name <raphaellegiordano.com> is registered with Gname.com Pte. Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 16, 2024. On October 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 21, 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 (Redacted for Privacy) and contact information in the Complaint. The Registrar's verification response also confirmed that the language of the registration agreement was English. The Center sent an email communication to the Complainant on October 21, 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 October 24, 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 October 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 18, 2024.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on November 27, 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 describes herself as a French painter and author. Her list of published works includes:

- Ta deuxième vie commence quand tu comprends que tu n'en as qu'une (2015)
- Le jour où les lions mangeront de la salade verte (2019)
- Le bazar du zèbre à pois (2021)
- Cupidon a des ailes en carton (2020)
- Le spleen du popcorn qui voulait exploser de joie (2022)
- Heureux les fêlés car ils laissent passer la lumière (2023)
- Et ils vécurent heureux malgré tous leurs enfants (2024)

The publication rights to her first novel "Ta deuxième vie commence quand tu comprends que tu n'en as qu'une" has been sold in more than 40 countries and some 2.2 million copies have been sold between 2015 and 2020. The Complainant's second novel, "Le jour où les lions mangeront de la salade verte", has been translated into 10 different languages and has sold over 600,000 copies. From the data included in Annex 3 to the Complaint, the Complainant's works have achieved sales of almost four million copies.

In 2018, the Complainant was the second best-selling author in France and in 2019, the sixth highest selling author.

The published novels bear the Complainant's name prominently displayed on their covers.

In addition to sales, the Complainant's novels have been the subject of a very extensive range of reviews in the press and media. In each, the Complainant's name, as the author, features prominently.

According to the Whois record, the disputed domain name was registered on August 9, 2024.

It resolves to a webpage which is headed "Alexis Togel" and which is, or promotes, some form of betting game "Agen Togel Singapore". The Complainant says the language on the website is Indonesian.

For many years prior to August 2024, however, the Complainant claims that she was the registrant of the disputed domain name and it was used to promote the Complainant's works. The URL to the Complainant's website using the now disputed domain name was printed on the title page of her books. According to the Complainant, the registration was allowed to lapse as a result of a clerical error.

5. Discussion and Findings

No response has been filed. The Complaint and Written Notice have been sent, however, to the Respondent at the electronic and physical coordinates confirmed as correct by the Registrar in accordance with paragraph 2(a) of the Rules. Bearing in mind the duty of the holder of a domain name to provide and keep

up to date correct Whois details, therefore, the Panel finds that the Respondent has been given a fair opportunity to present his or its case.

When a respondent has defaulted, paragraph 14(a) of the Rules requires the Panel to proceed to a decision on the Complaint in the absence of exceptional circumstances. Accordingly, paragraph 15(a) of the Rules requires the Panel to decide the dispute on the basis of the statements and documents that have been submitted and any rules and principles of law deemed applicable.

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain name, the Complainant must demonstrate each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of 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

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

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.

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark at the date the Complaint was filed and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark.

The Complainant does not rely on a registered trademark, however, rights in an unregistered trademark also suffice for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

In the present case, the Complainant has clearly established such rights in her name through the extensive sales of her books under her name. In that connection, the Panel notes that the Complainant's name, Raffaella Giordano, features prominently on the covers of her published works. That is a very well-established practice in the publishing industry as writers like the Complainant often depend on recognition of their names when members of the public are considering buying a book. Thus, for example, it is hoped that a reader who has enjoyed one title by a particular author may be enticed into buying a second book through recognition of the author's name. That is clearly use as a trademark-like identifier. [WIPO Overview 3.0](#), section 1.5.

Accordingly, the Complainant has proven ownership of her name, RAPHAELLE GIORDANO, as a trademark for the purposes of the Policy.

It is well accepted that the Top-Level Domain ("TLD") component of a disputed domain name may be disregarded when comparing the disputed domain name to the Complainant's trademark. [WIPO Overview 3.0](#), section 1.11.

Disregarding the ".com" TLD, therefore, the disputed domain name is identical to the Complainant's trademark.

Accordingly, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a 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.

The Respondent registered the disputed domain name after the Complainant began using her trademark and had achieved extensive sales by reference to it.

The Complainant states that she has not authorised the Respondent to use the disputed domain name. Nor is the Respondent affiliated with her in any way.

The disputed domain name is not derived from the Respondent's name. Nor is there any suggestion of some other name by which the Respondent is commonly known from which the disputed domain name could be derived. According to searches undertaken by the Complainant, the Respondent is not the owner of a registered trademark for RAPHAELLE GIORDANO.

It is not clear whether betting or gambling is actually being provided through the Respondent's website. However, the name RAPHAELLE GIORDANO has no connection or association with those services which are presented as being offered under the name ALEX TOGEL. Given the Complainant's reputation in her name as her trademark, therefore, the use of the Complainant's trademark as the disputed domain name for the Respondent's website is highly likely to create a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the Respondent's website.

Just as an illegitimate use of a registered trademark does not qualify as a good faith offering of goods or services under the Policy, so too use likely to cause that type of confusion in the face of an unregistered trademark does not. Nor does it qualify as legitimate noncommercial or other fair use.

These matters, taken together, are sufficient to establish a prima facie case under the Policy that the Respondent has no rights or legitimate interests in the disputed domain name. The basis on which the Respondent has adopted the disputed domain name, therefore, calls for explanation or justification. The Respondent, however, has not sought to rebut that prima facie case or advance any claimed entitlement.

Accordingly, the Panel finds the Complainant has established the second requirement under the Policy also.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint: See e.g. *Group One Holdings Pte Ltd v. Steven Hafto*, WIPO Case No. [D2017-0183](#).

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant.

In the present case, the disputed domain name consists of the Complainant's name and trademark. That name has no apparent connection with the services apparently being offered from the Respondent's website. Nor with the Respondent or "Alex Tوجل" (if that is a real person). For all intents and purposes, therefore, the Complainant's name qualifies as a distinctive or fancy trademark.

Moreover, the Complainant is a well-known author so that the trademark is also a well-known trademark. The Panel infers that is particularly (but not exclusively) the case amongst Francophone peoples. And, in that connection, the address which the Respondent provided the Registrar is in Cambodia where French was an official language from 1863 to 1975.

As the Complainant's trademark in particular is not descriptive of the services being offered at the Respondent's website and also has no apparent connection with the Respondent, it appears highly likely that the Respondent has adopted the disputed domain name because of its trademark significance. In circumstances where the Respondent has not sought to claim, let alone establish, that he or she has rights or legitimate interests in the disputed domain name, therefore, the Panel finds the Respondent has registered it in bad faith.

Furthermore, the use of the disputed domain name for the Respondent's website with the risks of confusion as to source, sponsorship or association identified above constitutes use in bad faith under the Policy.

Accordingly, the Complainant has established all three requirements under the Policy.

6. 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 <raphaellegiordano.com> be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: December 11, 2024