

ADMINISTRATIVE PANEL DECISION

BAL DU MOULIN ROUGE v. Dale Scott, IPAM Case No. D2024-4304

1. The Parties

The Complainant is BAL DU MOULIN ROUGE, France, represented by CASALONGA, France.

The Respondent is Dale Scott, IPAM, United States of America ("United States").

2. The Domain Names and Registrar

The disputed domain names <moulinrougeentertainment.com>, <moulinrougehotel-casino.com>, <moulinrougeintl.com>, and <moulinrougeresort.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 October 18, 2024. On October 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 21, 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 (Anonymous / Registration Private Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 22, 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 25, 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 28, 2024. In accordance with the Rules, paragraph 5, the due date for the Response was November 17, 2024. The Respondent requested an extension, and an extension was granted by the Center. The new Response due date was November 25, 2024.

The Response was filed with the Center on November 26, 2024.

The Center appointed Jeremy Speres as the sole panelist in this matter on December 2, 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, founded in 1889 under the name MOULIN ROUGE, is best known as the birthplace of the modern form of the can-can dance. The Complainant's theatre is a well-known tourist attraction in Paris, offering musical dance shows, dance parties, receptions, and other forms of entertainment. The Complainant's MOULIN ROUGE mark has been recognized as being renowned in prior UDRP decisions. See e.g. *Bal du Moulin Rouge v. Domain Administrator*, See *Privacy Guardian.org / Doug Powell*, WIPO Case No. [D2022-2720](#).

The Complainant owns registrations for its mark in various jurisdictions, including United States Trademark Registration No. 2667568 MOULIN ROUGE in class 41, having a registration date of December 31, 2002.

The disputed domain names were all registered on June 10, 2023, and currently resolve to registrar parking pages displaying pay-per-click ("PPC") advertisements for various goods and services.

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 Respondent registered and uses the disputed domain names in bad faith in order to attract Internet users and disrupt the activity of the Complainant by creating a likelihood of confusion with the Complainant's well-known mark.

B. Respondent

In his informal response, the Respondent stated as follows:

"From 2002 to 2010, our group (Moulin Rouge Development Corp) owned the Moulin Rouge property in Las Vegas, Nevada. Despite our efforts to revitalize the property, the economic downturn of 2008 hindered our progress. Since that time, we have been committed to planning and promoting the resurgence of the iconic Moulin Rouge Hotel & Casino.

The domain name is a critical component of our domestic and international messaging strategy and plays a vital role in our revitalization efforts."

The Respondent points to the historical significance of the Las Vegas property, which he claims his group previously owned, in order to justify registration and use of the disputed domain names. In short, the Respondent claims that the property was previously the site of the "Moulin Rouge Hotel", which was a hotel and casino that operated briefly in 1955 that holds a significant place in American history, particularly in the context of civil rights and the desegregation of the entertainment industry. The Respondent claims that the disputed domain names are necessary for its efforts at resurrecting the Las Vegas hotel.

6. Discussion and Findings

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 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 may bear on assessment of the second and third elements, the Panel finds the additional words in this case 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.

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 disputed domain names all contain the Complainant's well-known mark, and the Complainant has certified that the Respondent is unauthorized by it.

The Respondent's informal response is insufficient to meet its burden of production. The Respondent's informal response largely consists of claims unsupported by evidence. Primarily, no evidence is provided supporting the Respondent's claim that he was part of a group that owned the Moulin Rouge Hotel property in Las Vegas. Nevertheless, the Complainant's Amended Complaint contains some public domain evidence pointing to the Respondent's involvement with such group, and the Panel is prepared to accept that this was in fact the case. The Panel also accepts that there was indeed a "Moulin Rouge Hotel" that operated in Las Vegas in 1955, which holds historical significance as the first desegregated hotel casino in the United States and which was listed on the United States National Register of Historic Places in 1992. Although it appears to have closed as a permanent establishment in 1955, the hotel seems to have operated sporadically since then in one form or another, and clearly retains some residual goodwill in its name owing in part to its historical significance in the civil rights movement. See ["en.wikipedia.org/wiki/Moulin_Rouge_Hotel"](https://en.wikipedia.org/wiki/Moulin_Rouge_Hotel).

However, a major difficulty arises for the Respondent's apparent reliance on the historical Las Vegas hotel for claiming rights or legitimate interests. The Respondent states "From 2002 to 2010, our group (Moulin Rouge Development Corp) owned the Moulin Rouge property in Las Vegas, Nevada". This implies that the Respondent's group had not owned the property for 13 years as at the registration date of the disputed

domain names, and the Respondent provides no details whatsoever regarding any current rights or interests he may have in the historical hotel. The Respondent likewise provides no details concerning any rights he may have in the residual goodwill attaching to the name of the hotel, which is a separate issue to ownership of the land and buildings comprising the historical hotel. As such, the Panel finds that the Respondent has failed to come forward with any relevant evidence establishing rights or legitimate interests in his hands in the name of the historical hotel sufficient to rebut the prima facie case put forward by the Complainant. The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Based on the Respondent's informal response and the public domain evidence provided in the Complaint showing the Respondent's past involvement with the historical hotel's property, it is likely that the Respondent was being truthful when he stated that the purpose of the disputed domain names was to market the resurrection of the historical hotel. His intentions therefore appear to have been directed at the historical hotel rather than targeting the Complainant directly, and it is at least plausible that the Respondent was not motivated by a desire to benefit from confusion with the Complainant or to take advantage of its reputation.

However, it seems likely that the name of the historical hotel was chosen, at the time, to take advantage of the repute of the Complainant's theatre, which had been in existence for roughly 66 years before the Las Vegas hotel opened in 1955. This is acknowledged in the Wikipedia article cited above: "The hotel was named after the Paris nightclub, the Moulin Rouge." In addition, the Complainant has presented evidence of the following trademark registration owned under its prior corporate name, which lapsed in 2000 but which was in force when the Las Vegas hotel opened: United States Trademark Registration No. 443297 MOULIN ROUGE in class 3, registered on August 23, 1949.

It seems to the Panel that the Policy would be self-defeating if a Respondent should be permitted to take advantage of a well-known trademark indirectly, by targeting an intermediate entity which itself took advantage of the trademark.

Nevertheless, the Panel need not decide the point given that this case appears to raise complex questions of trademark law that place it beyond the scope of the Policy's relatively narrow confines of cybersquatting.

In *Cerruti 1881 s.a.s. v. Gurpreet Johar*, WIPO Case No. [D2012-1574](#), the Panel held as follows:

The UDRP was designed to address only a very narrow class of domain name disputes – cases of abusive domain name registration, or cybersquatting. The Final Report of the WIPO Internet Domain Name Process of April 30, 1999 indicates that the mandatory alternative dispute resolution procedure proscribed by the UDRP must be limited in scope "to cases of bad faith, abusive registration of domain names that violate trademark rights". Subsequent years of case law have echoed this sentiment, reserving to the courts the complex questions of inter alia trademark infringement, breach of contract and fraud. See, for example, *Jimmy Alison v. Finland Property Services (Pty) Ltd.*, WIPO Case No. [D2008-1141](#) and *Edward Van Halen v. Deborah Morgan*, WIPO Case No. [D2000-1313](#): "The Policy is, thus, not designed to combat trademark infringement on the Internet or even questionable cases of cybersquatting, but rather, abusive, bad faith cybersquatting."

The Panel's view is that this case is characterised more as a trademark dispute than one of typical cybersquatting and is best left to the courts having the benefit of full evidentiary proceedings.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: January 7, 2025