

ADMINISTRATIVE PANEL DECISION

Société d'Exploitation de la Tour Eiffel v. Dirk Zagers
Case No. D2024-4565

1. The Parties

The Complainant is Société d'Exploitation de la Tour Eiffel, France, represented by Harlay Avocats, France.

The Respondent is Dirk Zagers, Germany.

2. The Domain Name and Registrar

The disputed domain name <eiffeltour.top> (the "Disputed Domain Name") is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 6, 2024. On November 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 6, 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 (Super Privacy LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 7, 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 November 12, 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 November 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 5, 2024.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on December 16, 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 company incorporated under French laws and has entered into a public service delegation contract with the City of Paris (Ville de Paris), the owner of the Eiffel Tower, to manage the monument. The Complainant is also obliged to protect all intellectual property rights related to the Eiffel Tower. The City of Paris (the “Trademark Owner”) owns various trademarks for or containing the term “TOUR EIFFEL” or “EIFFEL TOWER”, which it has licensed to the Complainant (the “Licensed Trademark”).

The relevant trademark registrations include, inter alia, French Trademark Registration No. 1310358 for TOUR EIFFEL registered on May 24, 1985, 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; French Trademark Registration No. 94548883

for LA TOUR EIFFEL (“” in graphic presentation) registered on December 13, 1994, 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, 37, 38, 39, 40, 41, 42, 43, 44, and 45; and International Registration No. 1195393 for “EIFFEL TOWER” registered on June 7, 2013, 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.

The Licensed Trademark is also fully incorporated in the Complainant’s domain names, inter alia, <toureffel.com>, <toureffel.org>, and <toureffel.city> (the “Complainant’s Domain Names”).

The Disputed Domain Name was registered by the Respondent on June 15, 2024, many years after the Trademark Owner registered the Licensed Trademark. The Complainant alleges that at the time of the Complaint, the Disputed Domain Name resolved to a website which allowed users to purchase tickets for the Eiffel Tower, and to skip the lines at the official ticket offices. The online offers included guided tours, which were not usually offered by the Complainant nor automatically endorsed by the Complainant. At the time of the rendering of this decision, the Disputed Domain Name resolves to a parked site comprising “pay-per-click” (“PPC”) advertising links to services unrelated to the Trademark Owner’s or the Complainant’s business (the “Respondent’s Website”).

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 contends that:

(a) The Disputed Domain Name is identical or confusingly similar to the Licensed Trademark. The Disputed Domain Name reproduces the verbal elements “EIFFEL” and “TOUR” of the Licensed Trademark No. 1310358 for TOUR EIFFEL and No. 94548883 for LA TOUR EIFFEL. Although the words “EIFFEL” and “TOUR” are in reversed order in the Disputed Domain Name, the public will understand that the Disputed Domain Name is composed of the words “EIFFEL” and “TOUR”, and refers to the Eiffel Tower. The Disputed Domain Name is also confusingly similar to the Licensed Trademark for EIFFEL TOWER, as it contains the word “EIFFEL” accompanied by the word “TOUR”, which is the translation of “TOWER” in French. The Disputed Domain Name created a likelihood of confusion for the public who may erroneously believe that the Disputed Domain Name is registered and used by an entity connected to or belonging to the Complainant.

(b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. Neither the Complainant nor the Trademark Owner has authorised the Respondent to use the Licensed Trademark or to register the Disputed Domain Name. There is no evidence that the Respondent has used or prepared to use the Disputed Domain Name for any bona fide offering of goods or services. The Respondent is not commonly known by the Disputed Domain Name and is not making a legitimate non-commercial or fair use of it. Instead, the Respondent used the Disputed Domain Name to create the Respondent's Website with a visual design identical to the official website of the Complainant (the "Complainant's Website"), and includes false information about the origin of the Respondent's Website. This indicates the Respondent's intent to unlawfully obtain commercial gain by misleading consumers.

(c) The Respondent has registered and used the Disputed Domain Name in bad faith. The Respondent should have conducted a prior rights search before registering the Disputed Domain Name to avoid infringing the Complainant's rights. The Eiffel Tower is a globally recognized symbol, and the Respondent could not have been unaware of the Complainant's rights. The Respondent's registration of the Disputed Domain Name was not a mere coincidence, given the global recognition of the Licensed Trademark, showing that the Respondent has intent to benefit from the Complainant's international reputation. The Respondent's Website also attempted to impersonate the Complainant, as it adopted identical visual design as that of the Complainant's Website, reproduced "cookie consent" pop-up window, included the false and misleading header "Official Eiffel Tower Ticket Office", and offered tickets and guided tours without authorization etc. The Respondent's Website also falsely claimed to be associated with the Complainant and included misleading hyperlinks that redirected users to the Complainant's official websites. This may cause the public to wrongly believe the Respondent's Website belongs to or is endorsed by the Complainant.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 has been registered and is being used by the Respondent in bad faith.

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 Licensed 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 Complainant, which is an exclusive trademark licensee (according to the license agreement for the trademarks, logos and domain names attached to the Public Service Delegation related to the "modernization and operation of the Eiffel Tower") is considered to have rights in the Licensed Trademark under the UDRP in terms of having standing to file the Complaint. Based on the facts and circumstances described in the Complaint, the Panel is of the view that the Complainant has the authorization from the Trademark Owner to file this UDRP case. [WIPO Overview 3.0](#), section 1.4.1.

The Disputed Domain Name incorporated both of the two terms “TOUR” and “EIFFEL” in the Licensed Trademark but the order of the two terms has been reversed. The Panel also notes that the term “TOUR” in the Disputed Domain Name is the French translation of “TOWER” in the Licensed Trademark EIFFEL TOWER. The Panel considers that these characteristics do not prevent a finding of confusing similarity between the Disputed Domain Name on the one hand and the Licensed Trademark (TOUR EIFFEL and EIFFEL TOWER) on the other. [WIPO Overview 3.0](#), section 1.14.

Furthermore, it is well established that the generic Top-Level Domain (“gTLD”), “.top” in this case, may be disregarded for the purpose of assessing confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.11.1. Accordingly, the Disputed Domain Name is confusingly similar to the Licensed Trademark for the purposes of the Policy.

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.

In the present case, the Respondent did not submit a Response. The fact that the Respondent did not submit a Response does not automatically result in a decision in favor of the Complainant. However, the Respondent’s failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become commonly known by the Disputed Domain Name. The Panel further notes the distinctiveness and worldwide reputation of the Licensed Trademark, and the fact that neither the Trademark Owner nor the Complainant has provided any licence or authorisation of any kind to the Respondent to use the Licensed Trademark or to apply for or use any domain name that incorporates the Licensed Trademark. There is no evidence to suggest that the Respondent’s use of the Disputed Domain Name is in connection with a bona fide offering of goods or services or be regarded as legitimate noncommercial or fair use.

Whilst the Respondent is using the Disputed Domain Name to host a parked page comprising PPC links, this does not of itself confer rights or legitimate interests arising from a “bona fide offering of goods or services” or from “legitimate noncommercial or fair use” of the Disputed Domain Name (see *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#)).

Furthermore, Panels have previously held that rights or legitimate interests cannot be created where the user of the domain name would not choose such names unless he was seeking to create an impression of association with the complainant (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#); see also *Drexel University v. David Broud*, WIPO Case No. [D2001-0067](#)). The Respondent would likely not have registered the Disputed

Domain Name if not for the purpose of creating an impression that it was associated with, or originates from, the Complainant, especially given that the Respondent's Website allegedly adopted a visual design that was similar to that of the Complainant's Website, allegedly offered Eiffel Tower tickets for sale, and allegedly included false and misleading information (by indicating it is the "Official Eiffel Tower Ticket Office" in the header of the Respondent's Website). The Disputed Domain Name therefore carries a risk of implied affiliation as it effectively suggests sponsorship or endorsement of the Complainant or the Trademark Owner. [WIPO Overview 3.0](#), section 2.5.1

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 Name. 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 Name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for an illegitimate activity, such as in this case, namely alleged impersonation or passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

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.

In the present case, the Panel notes that it is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that it has incorporated the Licensed Trademark, and the Respondent has allegedly impersonated the Complainant on the Respondent's Website. The Respondent intentionally registered the Disputed Domain Name to attract Internet users to the Respondent's Website for commercial gain by creating a likelihood of confusion with the Licensed Trademark. See section 3.1 of the [WIPO Overview 3.0](#). Also, as discussed above, the Respondent lacks any rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)). Further, the Respondent failed to respond to the Complainant's contentions and has provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name.

The Panel finds that the Licensed Trademark was registered and was put into use well before the Respondent registered the Disputed Domain Name. Given the well-known nature of the Licensed Trademark, evidenced by the various trademark registrations across the globe, there is no doubt that the Respondent was fully aware of the Complainant and the Licensed Trademark when it registered and used the Disputed Domain Name.

The Complainant claimed that at the time of filing of the Complaint (and has provided evidence), the Disputed Domain Name resolved to a website that impersonated the Complainant and offered Eiffel Tower tickets and guided tours. However, the Panel notes that at the time of rendering of this Decision, the Disputed Domain Name resolved to a parked site comprising PPC advertising links to services unrelated to the Trademark Owner's or the Complainant's business. While the intention to earn commercial revenue from PPC links is not in and of itself evidence of bad faith, previous panels have found that the use of a domain name deceptively similar to a complainant's trademark to obtain click-through revenue supports a finding of bad faith use (see *VKR Holding A/S v. Wu Yu*, WIPO Case No. [D2022-0744](#)). Given that the Disputed Domain Name incorporates the Licensed Trademark, the Panel therefore finds it difficult to conceive that the Respondent was not using the Disputed Domain Name to intentionally attract, for commercial gain, Internet users to the Respondent's Website by creating a likelihood of confusion with the Licensed Trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's Website. The Panel also notes that, according to the Complainant, the Respondent did not respond to the abuse report submitted by the

Complainant to the hosting provider Cloudflare on July 24, 2024, which has been purportedly forwarded to the Respondent.

Panels have held that the use of a domain name for illegitimate activity, such as in this case alleged impersonation or passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

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 name <eiffeltour.top> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: January 3, 2025