

ADMINISTRATIVE PANEL DECISION

Bal du Moulin Rouge v. Andrii Gava Andrii Gava
Case No. D2024-5080

1. The Parties

The Complainant is Bal du Moulin Rouge, France, represented by CASALONGA, France.

The Respondent is Andrii Gava Andrii Gava, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <moulinrougetour.com> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 10, 2024. On December 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 12, 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 (Anonymous/Whois Privacy, Private by Design, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on December 12, 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 December 16, 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 December 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 13, 2025.

The Center appointed Lynda J. Zadra-Symes as the sole panelist in this matter on January 20, 2025. 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. Further Procedural Considerations

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceedings take place with due expedition.

Since the Respondent's mailing address is stated to be in Ukraine which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceedings should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel notes that the Center has sent Notification of Complaint by email to the Respondent at its email address as registered with the Registrar and to a postmaster email address as specified by the Rules. There is no evidence that the case notification email to the first email address was not successfully delivered.

It is moreover noted that, for the reasons which are set out later in this Decision, the Panel has no serious doubt (albeit in the absence of any Response) that the Respondent registered and has used the disputed domain name in bad faith and with the intention of unfairly targeting the Complainant.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceedings take place with due expedition the Panel will proceed to a Decision accordingly.

5. Factual Background

The Complainant is well known worldwide under the mark MOULIN ROUGE, which it has used since 1889. The Moulin Rouge is one of the most famous touristic attractions in Paris, offering musical dance entertainment for visitors from around the world. The Complainant operates as a theater for dance parties, entertainment and receptions, and offers its services and facilities to groups, companies and individuals. Many international stars have performed on stage at the Moulin Rouge.

The Complainant owns all intellectual property rights associated with the MOULIN ROUGE, including all trademark rights in the mark and all visual elements associated with the MOULIN ROUGE location.

The Complainant has operated a website at "www.moulinrouge.fr" for approximately 20 years, displaying information about the Complainant, describing its services and displaying a picture and video gallery featuring its shows.

The Complainant owns numerous trademark registrations for or containing the mark MOULIN ROUGE, including the following:

European Union ("EU") trademark registration MOULIN ROUGE PARIS No. 010841567, registered September 24, 2012,
International Registration MOULIN ROUGE No. 1016676, registered June 12, 2009, and
EU trademark registration MOULIN ROUGE No. 000110437, registered November 5, 1998.

The Complainant also owns numerous domain names, including,

<moulin-rouge.com>, registered February 9, 1998,
<moulinrouge.com>, registered May 15, 1998,
<moulinrouge.fr>, registered March 23 1999, and
<moulin-rouge.fr>, registered October 27, 1999.

The Complainant also operates a store at the website “www.store.moulinrouge.fr”, offering products which promote the MOULIN ROUGE brand.

In June 2018, The Complainant conducted a worldwide awareness and image assessment quantitative survey, in which the Moulin Rouge is recognized as the leading permanent cabaret/music-hall venue in all countries. These survey results evidence the high reputation of the Complainant in Europe and other countries.

Many previous UDRP panels have confirmed the well-known reputation of the MOULIN ROUGE trademark worldwide.

In 2018, the musical comedy *Moulin Rouge! The Musical* was launched. The musical is being performed in many countries, including the United Kingdom and the United States of America (“United States”) and has received many awards. The Complainant granted a license to a third-party company, Global Creatures, authorizing it to sell tickets to the musical. The Respondent is not related to the Complainant or its licensee.

The disputed domain name was registered on April 26, 2024, and resolves to a website promoting *Moulin Rouge! The Musical*, which provides information about the United States national tour, including the dates and locations of the performances. The website at the disputed domain name prominently displays the Complainant’s MOULIN ROUGE trademark and reproduces several photographs from the official MOULIN ROUGE website.

6. 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 the disputed domain name incorporates the Complainant’s well-known mark in its entirety, that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

7. 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 entirety of the mark is reproduced within the disputed domain name. The added term “tour” does not prevent a finding of confusing similarity. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 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 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.

The Complainant submits that it has no relationship with the Respondent and has not granted any license, permission or authorization to the Respondent to use the Complainant’s trademark. The disputed domain name is not being used in connection with a bona fide offering of services or any descriptive (fair) use. The website at the disputed domain name states “Still looking for the cheapest Moulin Rouge NYC Tickets? Check out our table of available seats and tickets, check out the dates and book your comfort in your favourite area of the auditorium in advance.” Even though there is no functionality for making a reservation or completing an online purchase, and the Respondent does not seem to offer any tickets or other services on the website, the Panel notes that the composition of the disputed domain name suggests to the Panel that it is related to the Complainant or its efforts to promote its musical. Furthermore, the website at the disputed domain name does nothing to clarify the non-affiliation of the Parties, e.g. does not clearly and prominently disclose the Respondent’s lack of relationship with the Complainant. Instead, it prominently features the Complainant’s trademark and a number of the Complainant’s promotional images for its musical. The Panel therefore finds that the Respondent is using the disputed domain name and impersonating the Complainant on its website to attract Internet users by creating a likelihood of confusion with the Complainant’s mark.

Panels have held that the use of a domain name for illegitimate activity, such as phishing, 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.

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 the Respondent was very likely aware of the Complainant's well-known trademark at the time of registering the disputed domain name. The Respondent's awareness is evidenced by his blatant copying of images from the Complainant's website and display of the Complainant's marks at the Respondent's website. The record indicates that the Respondent's registration and use of the disputed domain name was designed to intentionally attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

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.

8. 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 <moulinrougetour.com> be transferred to the Complainant.

/Lynda J. Zadra-Symes/

Lynda J. Zadra-Symes

Sole Panelist

Date: February 3, 2025