

## **ADMINISTRATIVE PANEL DECISION**

Bal du Moulin Rouge v. Paulo De Bastos, Moulin Rouge Cafe  
Case No. D2024-5271

### **1. The Parties**

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

The Respondent is Paulo De Bastos, Moulin Rouge Cafe, United States of America ("United States").

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

The disputed domain name <moulinrougecafe.shop> is registered with Tucows Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 20, 2024. On December 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 23, 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 (Contact Privacy Inc. Customer 0170324464) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 24, 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 27, 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 January 6, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 26, 2025. The named Respondent sent email communications to the Center on January 17 and 28, 2025.

The Center appointed Theda König Horowicz as the sole panelist in this matter on February 21, 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. Factual Background**

The Complainant operates the Moulin Rouge theater in Paris, France, where the very well-known cabaret show of the same name has been performed since 1889 and also operates as a venue for dance parties, entertainment, and receptions, offering its services and facilities to groups, companies and individuals.

The Complainant owns French trademark registration No. 1311105 for MOULIN ROUGE registered on May 3, 1983, and also United States trademark registration No. 3931511 registered on March 15, 2011, and has corresponding registrations in numerous jurisdictions, including in the United States (United States trademark registration No. 3239920 for MOULIN ROUGE registered on May 8, 2007).

The Complainant also owns the domain name <moulinrouge.fr> from which it promotes its services and cabaret shows and a number of other domain names incorporating its MOULIN ROUGE mark, including <moulinrouge.com> and <moulin-rouge.com> both registered in 1998. Additionally, the Complainant is active on social media where it has a large number of followers.

The disputed domain name was registered on February 23, 2024, and is currently inactive. It redirected previously to a website promoting coffee by using a prominent logo composed of arabesques and the words "ORGANIC COFFEE MOULIN ROUGE CAFÉ". At the time of the filing of the Complaint, the disputed domain name redirected to an ecommerce landing page.

On November 28, 2024, the Complainant sent a formal notice by email to the Respondent asking notably for the transfer of the disputed domain name. No response was given.

#### **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 to be the owner of registered trademark rights over MOULIN ROUGE, notably in France and the United States. The disputed domain name contains its MOULIN ROUGE trademark in entirety and is therefore similar. The addition of the generic term "café" which means "coffee" in French designates the language in which the Complainant is known, thus increasing the likelihood of confusion.

The Complainant further contends that it has no relationship with the Respondent and that no authorization or license was given to the latter over MOULIN ROUGE. The use made by the Respondent of MOULIN ROUGE in relation with a coffee brand, on the previous version of the website linked to the disputed domain name and in social media, could lead Internet users to incorrectly believe that the Respondent is legitimate or has a link with the Complainant. This does not constitute a bona fide use. Furthermore, the Respondent is not commonly known by the disputed domain name.

Finally, the Complainant contends that its well-known trademark was registered prior to the disputed domain name. Considering its well-known character, the Respondent obviously knew about the existence of said mark when registering the disputed domain name. The Respondent tried to take advantage of the fame of the Complainant's mark by using it in the disputed domain name which redirected to a website offering "Moulin Rouge Coffee" for sale, so as to intentionally misdirect Internet users searching information about the Complainant. The bad faith of the Respondent also results from the deletion of the website and from the absence of any response to the Complainant's formal notice.

## **B. Respondent**

The Respondent did not substantively reply to the Complainant's contentions. An email was received by the Center on January 17, 2025, indicating that the Respondent would agree to the cancellation of the disputed domain name.

## **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 the trademark MOULIN ROUGE 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. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "cafe", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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 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. Indeed, upon receiving notice of the dispute the Respondent did not seek to explain any potential bona fide offering of goods or services, or legitimate noncommercial or fair use, but merely confirmed a voluntary offer to cancel the disputed domain name.

The Complainant has submitted that it has no relationship with the Respondent and has not authorised their use of its trademarks in any respect including for use in the disputed domain name. It has further asserted that there is no evidence that the Respondent is or has been known by the disputed domain name. Merely including “Moulin Rouge Cafe” in the registrant organization details of the disputed domain name registration is insufficient on its own to show the Respondent is commonly known by the disputed domain name for the purposes of the Policy. [WIPO Overview 3.0](#), section 2.3.

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 disputed domain name was registered in 2024 long after the registration of the Complainant’s trademarks. Considering the very significant degree of reputation attached to the MOULIN ROUGE mark in France and abroad as a result of use internationally over a long period of time, it is most likely that the Respondent was well aware of the Complainant’s mark and business when it registered the disputed domain name.

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.

Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity (particularly where the domain name incorporates the mark plus a descriptive term) can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Furthermore, the Complainant evidenced that the disputed domain name was previously redirecting to a webpage promoting and selling “Moulin Rouge Coffee” using its well-known MOULIN ROUGE trademark without prior authorization. In this context, the Panel finds that the Respondent knew or should have known of the Complainant’s trademark and more likely than not registered and used the disputed domain name in an attempt to attract for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location or of a product or service on the Respondent’s website or location as set out in paragraph 4(b)(iv) of the Policy. The Respondent did not provide any explanations as to how such use could be considered as a good faith use.

The fact that the disputed domain name no longer resolves to an active website does not prevent a finding of bad faith. Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant’s trademark and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel therefore 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 <moulinrougecafe.shop> be transferred to the Complainant.

*/Theda König Horowicz/*

**Theda König Horowicz**

Sole Panelist

Date: March 14, 2025