

ADMINISTRATIVE PANEL DECISION

MP Concerts, LLC v. Yozgyur Dilek
Case No. D2025-1625

1. The Parties

The Complainant is MP Concerts, LLC, United States of America (“U.S.”), represented by Ballard Spahr, LLP, U.S.

The Respondent is Yozgyur Dilek, Bulgaria.

2. The Domain Name and Registrar

The disputed domain name <playinginthesand.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 22, 2025. On April 23, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Fred Johnson) and contact information in the Complaint.

The Center sent an email communication to the Complainant on April 23, 2025, 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 the same April 28, 2025.

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 May 9, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 29, 2025. The Respondent did not submit any Response ahead of the due date. Accordingly, the Center notified the Respondent’s default on June 3, 2025.

The Center appointed Jeremy Speres as the sole panelist in this matter on June 6, 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 organizes luxury destination concert events throughout the Caribbean, combining live performances by musical artists with premier resort accommodations. The Complainant, along with its predecessor in title, has, since 2017, organized one such event under the PLAYING IN THE SAND mark, featuring popular bands such as Dead & Company and hosted at, amongst others, the Moon Palace Resort in Cancún, Mexico.

The Complainant's PLAYING IN THE SAND mark is registered in the U.S. under Trademark Registration No. 5636690 PLAYING IN THE SAND in classes 25, and 41, having a registration date of December 25, 2018, and a first use in commerce date of July 26, 2017.

The Complaint states that the Complainant used to own the disputed domain name, but around June 24, 2024, an employee of the Complainant failed to renew the disputed domain name, which expired and was then registered by the Respondent. The Complainant's Internet Archive evidence shows that the disputed domain name was used continuously from 2017 until 2024 to market the Complainant's PLAYING IN THE SAND events.

The disputed domain name was registered on June 26, 2017. The Complainant's evidence establishes that, as at August 12, 2024, the disputed domain name resolved to a website entitled "Playing in the Sand 2025 – The Ultimate Beach Festival Experience", advertising a music festival to be hosted at the Moon Palace Resort in Cancún, Mexico, in February 2025.

An agent of the Complainant contacted the Respondent in August 2024, apparently with a view to purchasing the disputed domain name on behalf of the Complainant. The Respondent indicated that it purchased the disputed domain name for USD 15,000 and stated, "If your offer less than 100,000, no need to talk."

Presently, the disputed domain name redirects to <ninascoffeecafe.com> featuring a website for "Nina's Coffee Café".

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 the disputed domain name was registered and has been used to impersonate the Complainant for the Respondent's commercial benefit.

B. Respondent

The Respondent did not reply to the Complainant's contentions. The only potentially relevant response from the Respondent was to state: "bro stop talking official, what is ur wrong? i pay and buy domain. also it is not even active domain. what u want from me? just write it simply."

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 entirety of the mark is reproduced within the disputed domain name, without more. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

For the reasons discussed in relation to bad faith below, it is likely that the Respondent registered the disputed domain name to take advantage of confusion with the Complainant's mark. The Respondent's registration and use of the disputed domain name in these circumstances cannot represent a bona fide offering of goods or services under paragraph 4(c)(i) of the Policy and cannot confer rights or legitimate interests. *Sistema de Ensino Poliedro Vestibulares Ltda., Editora Poliedro Ltda. v. Anonymize, Inc. / STANLEY PACE*, WIPO Case No. [D2022-1981](#). Additionally, generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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

C. Registered and Used in Bad Faith

The Complainant alleges that "On or about June 26, 2024, Respondent registered the Disputed Domain Name through GoDaddy.com". However, the registration date reflected in the disputed domain name's Whois record is listed as June 26, 2017. It is well accepted that the date upon which the current registrant

acquired the domain name is the date a panel will consider in assessing bad faith. [WIPO Overview 3.0](#), section 3.9. Thus, the Panel is tasked with assessing when the Respondent acquired the disputed domain name.

In its pre-Complaint correspondence with the Complainant, the Respondent stated that he purchased the disputed domain name for USD 15,000. The Complainant's Internet Archive evidence shows that the disputed domain name resolved to websites promoting the Complainant's events from 2017 until February 2024. In accordance with its powers of independent research articulated inter alia in paragraphs 10 and 12 of the Rules, the Panel's independent viewing of the Internet Archive's records for the disputed domain name show that it continued to resolve to websites promoting the Complainant's events until June 23, 2024. The next recorded entry in the Internet Archive for the disputed domain name is dated August 10, 2024, which shows the disputed domain name resolving to the website entitled "Playing in the Sand 2025 – The Ultimate Beach Festival Experience", as detailed in the Factual Background section above. This latter website was very different in its look and feel to the earlier websites promoting the Complainant's events. Those earlier websites also mentioned the Complainant or its predecessor in title by name, whereas this latter website did not.

The Whois record for the disputed domain name shows that the disputed domain name's Whois record was last updated on August 7, 2024, and that its expiry date of June 26, 2025, corresponds with the typical annual renewal cycle for domain names, beginning with the registration date of June 26, 2017.

The Panel has also independently established, using publicly available expired domain name sales records, that the disputed domain name was sold in an expired domain name auction held by the Registrar on July 31, 2024.

All of this indicates that the disputed domain name expired in June 2024 when the Complainant failed to renew it (as stated in the Complaint), and that the Respondent acquired the disputed domain name at auction circa July 2024. The Panel is aware that registrars tend to retain the original registration date for domain names sold through expired domain name auctions, and that is what appears to have occurred here. Accordingly, despite the registration date reflected in the Whois record for the disputed domain name, it is likely that the Respondent acquired the disputed domain name circa July 2024, and this is the relevant date for assessing 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.

For the following reasons, the Panel finds that it is more likely than not that the Respondent registered and has used the disputed domain name to take advantage of confusion with the Complainant's mark for the Respondent's commercial gain, falling squarely within paragraph 4(b)(iv) of the Policy.

The Complainant has presented evidence from well-known music and related industry publications showing that its PLAYING IN THE SAND mark enjoyed significant recognition in the music festival industry prior to acquisition of the disputed domain name by the Respondent. Internet searches for the mark corroborate this, showing results relating to the Complainant's mark dominating the first-listed results.

The Respondent used the disputed domain name for a website relating to a music festival ostensibly to be held at the very same resort where the Complainant has held its own events in the past. This shows a familiarity by the Respondent with the Complainant's industry and the geographic territory where the Complainant has operated under its reputed mark. Use of an identical domain name to the Complainant's reputed mark in these circumstances points to knowledge and targeting of the Complainant's mark.

The Complainant's evidence establishes that, in April 2025, the web browser of its representative warned the user against accessing the website to which the disputed domain name resolved given that it had been reported for phishing. The Panel has independently established that at least five security vendors have

flagged the disputed domain name for phishing or other malicious activity, which is a clear indicator of bad faith. *The Commissioners for HM Revenue and Customs v. WhoisGuard Protected, WhoisGuard, Inc. / Hoshyar Marshall*, WIPO Case No. [D2021-0344](#).

In the circumstances, it appears likely that the Respondent opportunistically registered the disputed domain name upon its expiry in order to take advantage of confusion with the Complainant and its events for the purposes of leading users to believe that the disputed domain name's website related to the Complainant's next event to be held in 2025. The fact that the Complainant itself used the disputed domain name for seven years prior to market its events means that the disputed domain name was primed for this purpose and already credible to users, making it an attractive candidate for the Respondent's likely scheme. Paragraph 4(b)(iv) of the Policy is thus eminently applicable.

The Respondent apparently supplied incomplete or false address details in the Whois record for the disputed domain name; the Center's courier indicated that a "bad address" was supplied and that the Center's correspondence could not be delivered to the Respondent. In the circumstances of this case, this suggests an attempt by the Respondent to evade pursuit. *Kabushiki Kaisha Raibudoa v. Kubota, A*, WIPO Case No. [D2001-0817](#).

The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for. [WIPO Overview 3.0](#) at section 4.3.

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 <playinginthesand.com> be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: June 13, 2025