

ADMINISTRATIVE PANEL DECISION

Pathe Marques v. Contact Privacy Inc. Customer 0163211335 / Contact Privacy Inc. Customer 0163203013 / Milen Radumilo
Case No. D2022-2995

1. The Parties

Complainant is Pathe Marques, France, represented by Cabinet Delucenay & Staeffen, France.

Respondent is Contact Privacy Inc. Customer 0163211335, Canada / Contact Privacy Inc. Customer 0163203013, Canada / Milen Radumilo, Romania.

2. The Domain Names and Registrars

The disputed domain names <pathechavant.com> and <patheschieda.com> (the “Domain Names”) are registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 12, 2022. On August 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On August 15, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on August 17, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 22, 2022.

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 Respondent of the Complaint, and the proceedings commenced on August 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 13, 2022.

The Center appointed Dinant T. L. Oosterbaan as the sole panelist in this matter on September 19, 2022. 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

According to the information provided, Complainant belongs to the Pathe Group, which is a major film production and distribution company, owning a number of cinema chains and television networks across Europe. It is the second oldest operating film company. Pathe Group is the number one film studio in France and the leading cinema network in continental Europe, with 133 cinemas and 1,339 screens in 2019.

According to the evidence submitted by Complainant, Complainant owns multiple registrations for the trademark PATHE, including European Union trademark PATHE, registration number 008463391, registration date June 28, 2010.

The Domain Names <pathechavant.com> and <patheschieda.com> were both registered on November 30, 2021.

The Domain Names redirect to various pay-per-click websites.

The trademark registrations of Complainant were issued prior to the registration of the Domain Names.

5. Parties' Contentions

A. Complainant

Complainant submits that the Domain Names are confusingly similar to Complainant's PATHE trademarks as the Domain Names are highly similar to Complainant's prior trademarks and use the same naming pattern. According to Complainant the Domain Names <pathechavant.com> and <patheschieda.com> reproduce Complainant's trademarks associated with a location where a movie theater of Complainant is located:

- about <pathechavant.com>: the term "chavant" refers to the name of the Pathé movie theater in Grenoble, France; the term "chavant" is a reference to Etienne Chavant, the founder of the French resistance organization France Combat in 1942 who was born in Grenoble; as a tribute, Complainant's Grenoble movie theater is called "Pathé Chavant";
- about <patheschieda.com>: the term "schieda" is a typo referring to the town "Schiedam" in the Netherlands, where there is also a Pathé movie theater located.

According to Complainant, Respondent has no rights or legitimate interests in respect of the Domain Names. Complainant has not granted any authorization to anyone, which includes Respondent, to register domain names containing Complainant's trademarks or otherwise make use of its marks. Respondent is also not commonly known by the Domain Names. According to the evidence submitted by Complainant, the Domain Names resolve to several pay-per-click pages with commercial links, different at each connection. These pages also relate to cinema and movies, including streaming services of a competitor of Complainant. Complainant asserts that Respondent is not using nor preparing to use the Domain Names in connection with a *bona fide* offering of goods or services and is not making a legitimate noncommercial or fair use of the Domain Names.

Complainant submits that Respondent registered and is using the Domain Names in bad faith.

Respondent must have been aware of Complainant's earlier trademarks when he registered the Domain Names. Had Respondent performed even basic searches in search engines such as Google, Yahoo or Bing for "pathe", Respondent would have immediately found Complainant's website "www.pathe.com" as well as obvious references to Complainant's PATHE trademarks.

According to Complainant the Domain Names, in connection with pay-per-click pages with links relating to Complainant's industry, are thus being used with the view of attracting Internet users for commercial gain by creating a likelihood of confusion with Complainant's trademarks. Previous UDRP decisions have considered this type of use of a domain name sufficient to demonstrate bad faith.

Finally, Complainant asserts that Respondent's bad faith is further evident in being the subject of more than 130 domain name disputes. Far from engaging in a *bona fide* offering, Respondent purposefully provided links to websites and web services that compete with or capitalize on the reputation and goodwill of Complainant's mark or otherwise mislead Internet users.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraph 4(a) of the Policy requires that the complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (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 in bad faith.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, Complainant must first of all establish rights in a trademark or service mark and secondly that the Domain Names are identical or confusingly similar to that trademark or service mark.

Complainant has established that it is the owner of several trademark registrations for PATHE. The Domain Names <pathechavant.com> and <patheschieda.com> incorporate the trademark PATHE in its entirety, with the addition of the term "chavant" and the term "schieda", which is an obvious misspelling of the town "Schiedam" in the Netherlands. The Panel notes the undisputed submission that the term "chavant" in the Domain Name <pathechavant.com> is the surname of Etienne Chavant, which name is reflected in the cinema "Pathe Chavant".

Many UDRP panels have found that a disputed domain name is confusingly similar where the relevant trademark is recognizable within the disputed domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The generic Top-Level Domain ("gTLD") ".com" is disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that Complainant has proven that the Domain Names are confusingly similar to Complainant's trademarks under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In the opinion of the Panel, Complainant has made a *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Names. Complainant has not licensed or otherwise permitted Respondent to use any of its trademarks or to register the Domain Names incorporating its trademarks. Respondent is not making a legitimate noncommercial or fair use of the Domain Names without intent for commercial gain to misleadingly divert consumers or to tarnish the trademarks of Complainant.

Based on the undisputed submission and extensive evidence provided by Complainant, the Domain Names redirect to various pay-per-click websites which relate to cinema and movies, including websites with streaming services of a competitor of Complainant. The Panel does not consider such use a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Names. Respondent is also not commonly known by the Domain Names, nor has it acquired any trademark or service mark rights.

The Panel also notes that at the time of the decision, the Panel accessed the website associated with one of the Domain Names and noted that this website has extensive malware.

No Response to the Complaint was filed, and Respondent has not rebutted Complainant's *prima facie* case.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the Domain Names under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Domain Names have been registered and are being used in bad faith.

Noting the status of the PATHE mark and the overall circumstances of this case, the Panel finds it more likely than not that Respondent knew or should have known of Complainant's PATHE mark.

The Panel notes that the Domain Names redirect to various pay-per-click websites and at times to a website which has malware. In the circumstances of this case, Respondent registered and uses the Domain Names with the intention to attract, for commercial gain, Internet users to the websites by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The Panel finally notes that it would seem that Respondent is a systematic cybersquatter with a practice of selecting domain names incorporating famous trademarks of third parties. As pointed out by Complainant in its undisputed amendment to the Complaint, Respondent Milen Radumilo has been a respondent in a total of over 130 UDRP proceedings (see for example *American Airlines, Inc. v. Super Privacy Service LTD c/o Dynadot / Milen Radumilo*, WIPO Case No. [D2021-1242](#), *Carrefour SA v. Contact Privacy Inc. Customer 0164074004 / Milen Radumilo*, WIPO Case No. [D2022-1739](#), and *Teva Pharmaceutical Industries Limited v. Contact Privacy Inc. Customer 0164082050 / Milen Radumilo*, WIPO Case No. [D2022-1736](#)).

The Panel finds that Complainant has proven that the Domain Names have been registered and are being used in bad faith and paragraph 4(a)(iii) of the Policy has been satisfied.

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 Domain Names, <pathechavant.com> and <patheschieda.com>, be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Sole Panelist

Date: September 28, 2022