

ADMINISTRATIVE PANEL DECISION

PUY DU FOU FRANCE v. Stanventures, Senthil Vel
Case No. D2024-0172

1. The Parties

The Complainant is PUY DU FOU FRANCE, France, represented by SafeBrands, France.

The Respondent is Stanventures, Senthil Vel, India.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 16, 2024. On January 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 18, 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 (REDACTED FOR PRIVACY, PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 18, 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 January 23, 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 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 15, 2024. The Respondent sent an email communication to the Center on January 23, 2024.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on February 22, 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 operates a leisure park with a historical theme under the name and mark PUY DU FOU within the Department of Vendée, France. The term “Puy du Fou” also corresponds to the name of a castle located where the park has been developed. According to the Complainant, its park has existed for over 40 years and has more than two million visitors per year, being the fourth most visited theme park in France in 2019, 2020, and 2022.

The Complainant is the owner of European Union Registered Trademark Number 6442461 for the word mark PUY DU FOU, registered on February 3, 2009, in Classes 35, 41, and 43. The Complainant is also the owner of various related domain names, including <puydufou.com>, registered on October 4, 1997, and <puydufou.fr>, registered on April 10, 2003.

The disputed domain name was originally registered on December 8, 2003 by the Syndicat Mixte du Bocage vendéen, a local entity engaged in a territorial project in the same Department as the Complainant (“the Syndicat”). The Syndicat used the disputed domain name to promote the Complainant’s park and to provide local information on a website entitled “Prolongez l’aventure autour du Puy du Fou” (“Extend the adventure around the Puy du Fou”). The Syndicat retained the disputed domain name until approximately late 2019, when it was allowed to lapse. According to its current registration date, the disputed domain name was registered on February 12, 2020. Historic Whois records show that a change of registrant from the Syndicat to the privacy service used by the Respondent occurred at some point between December 12, 2019 and February 14, 2020. This suggests that there have been no intervening registrants involved, and that the Respondent picked up the disputed domain name directly following it being allowed to lapse by the Syndicat.

The disputed domain name points to an active website written in English with the appearance of a healthcare blog, entitled “AUTO URDU PUYDUFOU / Valuable ideas to live happier”. The content includes multiple hyperlinks redirecting to external commercial websites which include hotel reservations, and the sale of various products including CBD gummies and vinyl flooring.

No information is available regarding the Respondent, which has not participated in the administrative proceeding. Before the Complaint was filed, the Complainant attempted to correspond with the Respondent. A person named “Romeo Roy” (according to the corresponding email address) replied to the Complainant’s email on April 21, 2020, stating that the purpose of its registration of the disputed domain name was “sharing the useful information to others” and adding, “there is nothing to sell/buy in this site. You can check the site once and let me know”. The Respondent repeated this position on July 7, 2020, stating that it was “just sharing the information to others [...] we do not sell anything by using this”.

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 reproduces the Complainant’s mark identically, preceded by the French dictionary words “autour”, meaning “around”, and “du”, being the definite article, so that the disputed domain name reads “around the Puy du Fou” in French. Further contentions, in summary, are as follows: The addition of the dictionary words does not eliminate a likelihood of confusion

with the Complainant's mark, and the applicable Top-Level Domain ("TLD") may be disregarded for comparison purposes. The Respondent has no prior rights relating to the Complainant's marks as trademark, corporate or trade name. The Respondent provided no prior rights in correspondence with the Complainant's representative. The Respondent's website title, even if dissected differently, has no meaning and makes no sense in English. The Respondent is using the disputed domain name to benefit from historic traffic and backlinks created over 17 years of use by the Complainant's associate, but this does not constitute a bona fide offering of goods or services. The Complainant has given no permission to the Respondent to register and use the disputed domain name, and there is no association between the Parties. The Respondent has not acquired any trademark rights and is not commonly known by the disputed domain name. The disputed domain name is associated with active MX records that may potentially allow the Respondent to perform phishing attacks.

The Complainant also contends that the Respondent deliberately used a privacy shield to conceal its identity, which, coupled with the incorporation of the Complainant's trademark in the disputed domain name, strengthens the indication of the Respondent's bad faith at the time of registration. The Respondent could not overlook the existence of the Complainant's trademark given its worldwide fame built up over 40 years. Merely knowing such a trademark constitutes registration in bad faith. The Respondent is probably generating income based on the Complainant's notoriety by benefitting from the commercial links on its website. Redirecting a domain name that includes a well-known trademark to commercial websites is evidence of bad faith, as is the Respondent's prevention of the Complainant from developing its activities and freely using its trademark online. The Respondent did not reply to an offer to settle its out-of-pocket costs in registering the disputed domain name. The Respondent's failure to provide any explanation despite being afforded the opportunity to do so reinforces an inference of bad faith.

B. Respondent

The Respondent sent an informal email communication to the Center stating "Do you have the copyright certificate? for this domain ? if yes share that to me". The Center acknowledged receipt of this communication, and informed the Respondent of its right to submit a Response 20 days after the commencement of the administrative proceedings. The Respondent did not formally reply to the Complainant's contentions.

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. 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, the French compound preposition of place "autour du", may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

In the absence of any explanation from the Respondent or specific rebuttal of the Complainant’s contentions on this topic, the Panel finds on the balance of probabilities that the Respondent registered the disputed domain name to benefit from its association with the Complainant’s trademark and the Internet traffic created by the Complainant’s associate (which itself benefitted from the use of the Complainant’s mark in the disputed domain name, albeit apparently with the Complainant’s knowledge and consent). The Respondent has created an alleged blog site which features commercial links and uses the notoriety of the Complainant’s trademark to bring the public to it. The Panel assumes, in the absence of any countervailing evidence, that the Respondent seeks to benefit commercially from Internet users clicking on the relevant links. This use takes unfair advantage of the Complainant’s rights and could not confer rights or legitimate interests upon the Respondent.

The Panel has considered two further matters on this topic. The first is whether the Respondent’s dissection of the disputed domain name into the phrase “Auto Urdu Puydufou” might suggest some genuine use that is independent of, and does not seek to benefit unfairly from, the Complainant’s rights. The Complainant asserts, and the Panel accepts, that this term does not appear to have any meaning in English, which is the language of the website. The Panel is aware that the word “Urdu” represents a South Asian language, and the Panel does not overlook the fact that the Respondent appears to be based in Tamil Nadu, India, suggesting a potentially plausible connection to this term. However, the words “Auto” and “Puydufou” do not appear to make any sense when accompanied by the name of that language, particularly as “Puydufou” references the Complainant’s PUY DU FOU trademark. Given the Complainant’s unequivocal challenge to the validity or genuineness of the alleged phrase, it is incumbent on the Respondent to tender an explanation for its selection, if there is one. It has failed to do so, and in these circumstances the Panel considers it reasonable to infer that there is no such explanation available other than that the Respondent hoped by the re-dissected phrase to provide a cover for its incorporation of the Complainant’s mark in the disputed domain name.

The second matter to which the Panel has given consideration on this topic is the fact that the Complainant notes the term “Puy du Fou” originally derives from the name of the castle where its theme park is based. Indeed, the presentation on the Complainant’s history which has been placed into the record begins “When the Château of Puy du Fou was discovered on June 13, 1977 by Philippe De Villiers, it was little more than a nettle-covered ruin”. The Panel has therefore applied its mind to the question of whether the Respondent might be referencing the name of the castle via the disputed domain name, as opposed to the Complainant’s trademark per se. The Panel has discounted this notion for three principal reasons. First, the geographic reference makes no sense in terms either of the Respondent’s healthcare website or the title dissection to

“Auto Urdu Puydufou” discussed above. Secondly, the Complainant’s trademark appears to have achieved such prominence over the last 40 years in association with the Complainant’s theme park that the original geographic meaning referencing the castle appears to the Panel to have been entirely eclipsed by the Complainant’s commercial activities and the strength of the mark. Apart from the explanation of the origin of the Complainant’s name, there is no evidence before the Panel that people use the term “Puy du Fou” other than to reference the Complainant or its theme park. This is borne out by the Internet search results for the term provided by the Complainant. Finally, it must be noted that while the Complainant was entirely candid that its mark has a certain geographic origin, the Respondent chose to tender no explanation along those lines, which suggests to the Panel that any such explanation is not available to it and/or would probably not be convincing.

Given the prominence of the Complainant’s mark and the configuration of MX records in the disputed domain name, the Panel accepts the Complainant’s contention that the disputed domain name could potentially be used for phishing purposes, for example to impersonate the Complainant or its associate. Panels have held that the use of a domain name for such illegal activity 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 determines that the Respondent is using the disputed domain name to benefit commercially from Internet traffic built up due to its association with the Complainant’s mark, which is reproduced therein in its entirety. The Panel considers that the Complainant has made out a sufficient case on the balance of probabilities that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark, conform to paragraph 4(b)(iv) of the Policy.

Panels have held that the use of a domain name for illegal activity, here, the claim that the MX records associated with the disputed domain name could facilitate phishing directed against the Complainant, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

While there is no evidence of phishing having been carried out via the disputed domain name, the Panel considers that in respect of the email configuration, the disputed domain name constitutes an unfair continuing threat hanging over the head of the Complainant. 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 notes that despite being faced with the Complainant’s case on registration and use in bad faith regarding both of the above topics, the Respondent has chosen to remain silent. In the absence of any suitable explanation from the Respondent, and in particular considering the discussion regarding the Respondent’s possible motivations in the preceding section of this Decision, the Panel can conceive of no reasonable good faith motivation that could be imputed to the Respondent in respect of the registration and use of the disputed domain name.

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 <autourdupuydufou.com> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: March 7, 2024