

ADMINISTRATIVE PANEL DECISION

Pink Floyd (1987) Limited v. xing xing
Case No. D2024-1951

1. The Parties

The Complainant is Pink Floyd (1987) Limited, United Kingdom, represented by Boulton Watt, United Kingdom.

The Respondent is xing xing, China.

2. The Domain Name and Registrar

The disputed domain name <pinkfloydtributeshow.com> is registered with Domain Source LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 9, 2024. On May 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 23, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 17, 2024.

The Center appointed Mladen Vukmir as the sole panelist in this matter on June 20, 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 is Pink Floyd (1987) Limited, a private limited company established under the laws of England and Wales. The Complainant is the owner of rights to the world-famous Pink Floyd, English rock band formed in 1965, that has released and sold numerous records, studio albums, live albums and singles in the years since its formation. To date, the Complainant is estimated to have sold over 250 million albums worldwide.

The Complainant is well known and recognizable, enjoying a significant reputation worldwide. The Complainant's fame is reflected in its induction into the United States of America Rock & Roll Hall of Fame in 1996. Moreover, the Complainant has a large, worldwide fan base. The Complainant's reputation extends to China, where the Respondent purportedly resides.

The Complainant owns numerous trademark registrations for the PINK FLOYD trademark, such as: PINK FLOYD, registered in China on November 21, 2021 under the registration number 54326700A, for goods and services in class 25 of International Classification; PINK FLOYD, registered in United Kingdom on October 18, 1996, under the registration number UK00002066619, for goods and services in classes 9, 16, 25 and 41 of International Classification; PINK FLOYD registered in United States of America on October 13, 1998, under the registration number 2,194,702 for goods and services in classes 9, 16, 25 and 41 of International Classification (hereinafter collectively referred to as the "PINK FLOYD trademark").

The Complainant owns numerous domain names containing or incorporating PINK FLOYD trademark, including <pinkfloyd.com>, <pinkfloydrecords.com>, and <pinkfloydexhibition.com>, among many others. The <pinkfloyd.com> domain name resolves to the Complainant's official website at "www.pinkfloyd.com".

The disputed domain name was registered on April 13, 2024. It resolves to a website in Chinese displaying content related to gambling, and offering Android application download, not associated with the Complainant.

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:

(i) The Complainant is the owner of rights to the well-known, world famous, band Pink Floyd which was formed in 1965. The Band has sold enormous number of records since the Band's formation. In the third quarter of 2023, the Band earned over USD 1.7 million in royalties from retail and licensing of merchandise worldwide. Between December 2022 and November 2023, the combined revenue from advertising on YouTube and streaming on YouTube Music was over GBP 2 million. Total views for official content related to the Band in that period were over 1.7 billion. The Band's fame and reputation have attracted significant attention in the music press and media.

(ii) The disputed domain name is confusingly similar to the Complainant's PINK FLOYD trademark, while the disputed domain name incorporates the distinctive terms "Pink Floyd" entirely. The disputed domain name differs from the Complainant's earlier PINK FLOYD trademark only by words "tribute show" added to the disputed domain name. Added "tribute show" terms carry the connotation of musical performance.

(iii) The Respondent has no rights or legitimate interests in the disputed domain name, or the name contained within the disputed domain name. There is no indication that the Respondent has been known as "Pink Floyd Tribute Show". The Respondent has no connection with the Complainant, and the Complainant has not authorized any use of its PINK FLOYD trademark. The Respondent cannot claim to have any

legitimate interests in the domain name as it is not known by this name and is not making fair use of the disputed domain name.

(iv) The Respondent registered and is using the domain name in bad faith. The disputed domain name resolves to a website in Chinese displaying content related to gambling and offering Android application downloads, that have no connection with the Complainant. The Complainant's PINK FLOYD trademark predates the disputed domain name's creation. The Complainant and its PINK FLOYD trademark are well known and enjoy a significant reputation around the world. The Respondent's aim is to confuse consumers into believing that the disputed domain name belongs to the Complainant. The Respondent is targeting the Complainant and its rights and is deliberately seeking to make a connection with the Complainant through the disputed domain name. The Respondent is intending to use the disputed domain name with a view of a commercial gain by creating a likelihood of confusion. Visitors of the disputed domain name would expect to find a website relating to, or endorsed by, the band Pink Floyd, which is not the case. The Respondent must, or should have known of the Complainant when registering the disputed domain name, due to the well know status of the Complainant's PINK FLOYD trademark. Any online search for words "Pink Floyd", would have disclosed numerous results for the Complainant and its PINK FLOYD trademark.

B. Respondent

The Respondent did not 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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's PINK FLOYD trademark 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 in the disputed domain name, here descriptive terms "tribute show", 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 PINK FLOYD trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The disputed domain name consists of the Complainant's PINK FLOYD trademark, and descriptive terms "tribute show". Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, meaningless, or otherwise), would not prevent a finding of confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.8.

Regarding the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name, as a standard registration requirement it should be disregarded under the confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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 has not authorized the use of PINK FLOYD trademark, nor is the Respondent a licensee. There is no evidence in the case file or otherwise apparent to the Panel that the Respondent has been using the disputed domain name in connection with a bona fide offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name. In this Panel’s view, the Respondent’s use of the disputed domain name is to divert traffic to a website containing links to gambling.

Furthermore, the Panel notes that the composition of the domain name, including the terms “tribute” and “show”, does not match with its use.

Accordingly, the Respondent has no rights or legitimate interests in the disputed domain name that is the subject of this Complaint.

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

C. Registered and Used in Bad Faith

Considering the circumstances and evidence presented, the Panel deems the Complainant and its PINK FLOYD trademark to be well known, both having a significant reputation worldwide.

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, although the Respondent’s website is in Chinese language, the Panel notes from the icons and symbols displayed on the website, that the Respondent uses its website to display content related to gambling, and to offer Android application download, not associated with the Complainant.

The available evidence shows that registration and use of the Complainant’s PINK FLOYD trademark predate the registration of the disputed domain name. The Complainant and its PINK FLOYD trademark are well known and recognized around the world, especially in the music and entertainment industry. The terms “tribute show” that the Respondent added to the disputed domain name (following the Complainant’s PINK FLOYD trademark) are related to the musical performance, which is the industry where the Complainant has significant reputation. Based on the fame of the Complainant and its PINK FLOYD trademark, as well as widespread use of PINK FLOYD trademark worldwide, and the fact that the Respondent added to the

disputed domain name terms “tribute show“ that are related to musical performance, the Panel concludes that the Respondent was well aware of the Complainant and its PINK FLOYD trademark when it registered the disputed domain name.

The Respondent knew or should have known that the disputed domain name is confusingly similar to the Complainant’s PINK FLOYD trademark. The mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the trademark plus a descriptive term) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0.](#), Section 3.1.4.

The Panel finds that the Respondent’s awareness of the Complainant’s PINK FLOYD trademark at the time of registration of the disputed domain name suggests bad faith. In this Panel’s view, the Respondent registered and is using the disputed domain name to divert traffic to its website containing links to gambling. The use of PINK FLOYD trademark in the disputed domain name is intended to capture Internet traffic from Internet users who are looking for the Complainant’s products and services.

In this Panel’s view, the Respondent is, failing to demonstrate any rights or legitimate interests, intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s PINK FLOYD trademark.

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 <pinkfloydtributeshow.com> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: July 3, 2024