

## ADMINISTRATIVE PANEL DECISION

Pink TV v. Itech Me  
Case No. D2024-2330

### 1. The Parties

The Complainant is Pink TV, France, represented by PROMARK, France.

The Respondent is Itech Me, Estonia.

### 2. The Domain Name and Registrar

The disputed domain name <pink.cam> is registered with NameCheap, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 31, 2024. On June 7, 2024, 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 (Anonymous Owner (Iceland)) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 10, 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 June 13, 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 June 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 8, 2024. The Respondent did not submit any response. The Center received an informal communication from a third party on June 10, 2024. On June 11, 2024, the Center requested the third party to identify itself and to clarify any relationship if any with the Respondent, the third party did not reply to the Center’s communication. On July 22, 2024, the Center proceeded to panel appointment.

The Center appointed Steven A. Maier as the sole panelist in this matter on July 30, 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 a simplified joint-stock company registered in France. It offers a gay-oriented TV channel, a website with online forums and associated services, including content comprising pornography.

The Complainant is the owner of France trademark registration number 3760776 for the word mark PINK, registered on January 7, 2011, in International Classes 9, 35, 38, and 41.

The Complainant is also the owner of European Union trademark registration number 005153358, for a figurative mark, comprising a pink coloured square with the word “pink” at the bottom of the square (the “Complainant’s Logo”), registered on January 28, 2003 in International Classes 9, 38, and 42.

The Complainant operates a uniform resource locator (“URL”) at “www.pinkcam.fr”, which redirects to a website at “www.en.pinkx.eu”. The website offers gay-oriented pornographic content.

The disputed domain name was registered on April 3, 2024.

The disputed domain name has resolved to a website headed with the name “pink cam” and a logo in the form of a pink camera. The website offers “Live Cams” and other services related to a variety of categories of pornography. It features numerous photographs of “cam girls” whose services are available by subscription.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant states that it has operated under the name “Pink TV” since June 2001 and has used the PINK trademark intensively in connection with a well-known gay TV channel.

The Complainant submits that the disputed domain name is identical or confusingly to its trademark PINK. It contends that the disputed domain name comprises that trademark alone. It states that the generic Top-Level Domain (“gTLD”) “.cam” does not avoid confusion between the disputed domain name and the Complainant’s trademark, particularly in circumstances where the Respondent offers similar services to the Complainant’s.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its PINK trademark, that the Respondent has not commonly been known by the disputed domain name, and that the Respondent is making neither bona fide commercial use nor legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It contends that the Respondent’s reproduction of the Complainant’s PINK trademark is itself an indication of bad faith. It states that the Respondent’s use of that trademark, for services that are similar to those of the Complainant, including video content, is intended to confuse Internet users and to attract them to the Respondent’s website in the mistaken belief that it is connected with the Complainant.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions. However, in its email dated June 19, 2024, the third-party referred to above asked: "What is the exact reason for this dispute?"

## **6. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(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.

### **A. Identical or Confusingly Similar**

The Complainant has established that it is the owner of registered trademark rights in respect of the mark PINK. The disputed domain name wholly incorporates that trademark, without adornment, and is therefore identical to the disputed domain name, ignoring the gTLD ".cam" which may typically be disregarded for the purpose of comparison under the first element of the Policy. The Panel therefore finds that the disputed domain name is identical to a trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

The Respondent uses the disputed domain name for a website offering pornographic services and featuring "cam girls" in particular.

Based on the Panel's (limited) review of the Respondent's website, it appears to represent a genuine commercial venture and there is nothing to suggest it has been operated as a pretext for targeting the Complainant's trademark or taking unfair advantage of the Complainant's commercial goodwill.

While the Complainant has a registered trademark PINK, the Panel does not find that mark to be inherently distinctive and there is no evidence to suggest that it is regarded by the public as being exclusively referable to the Complainant and its services. Indeed the word "pink" is a dictionary word in common usage in the English language and is capable of legitimate use in connection with a wide variety of businesses. In particular, the Panel does not consider the use of that word to be unnatural or out of place in connection with adult or pornographic services, nor does the Panel consider that that term would necessarily be associated with gay-oriented content exclusively. The Panel also notes that the ".com" version of the disputed domain name is registered to and used by a third party (Victoria's Secret), supporting the notion of a degree of descriptiveness or suggestiveness relating to such term.

The Panel finds nothing in the evidence available to it upon which to infer that the Respondent registered the disputed domain name with the Complainant's trademark in mind, or with the intention of confusing Internet users into believing its website must be connected with the Complainant. The Panel notes, for example, that while the Complainant cites its ownership of the Complainant's Logo, the Respondent's website uses a pink camera device which does not resemble the Complainant's Logo.

The Panel finds in summary that the name "pink cam" is a reasonably obvious name for a pornographic website, and that there is nothing to suggest that the Respondent has used the name otherwise than in connection with its descriptive or suggestive meaning or to target the Complainant's own, non-distinctive, trademark.

The Complainant has therefore failed to establish, for the purposes of the Policy, that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Should the Complainant believe that the Respondent's website infringes its trademark rights (upon which the Panel expresses no view), then that is a matter for the Complainant to pursue in another forum if so advised. The decision in this proceeding can be based solely upon the terms of the Policy, and upon those criteria the Complaint must fail.

### **C. Registered and Used in Bad Faith**

While the Panel's findings in respect of the second element, above, are sufficient to determine this proceeding, the Panel adds for completeness that it finds no evidence (or basis upon which to infer) that the disputed domain name was registered and has been used in bad faith. The disputed domain name appears to have been used for the purposes of a separate website based on its descriptive or suggestive meaning and in the absence of any grounds upon which to conclude that the Respondent targeted the Complainant's (non-inherently distinctive) trademark.

### **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: August 13, 2024