

ADMINISTRATIVE PANEL DECISION

Banijay Entertainment and Banijay v. Stephanie Kent Case No. D2024-2548

1. The Parties

The Complainants are Banijay Entertainment and Banijay, France, represented by Domgate, France.

The Respondent is Stephanie Kent, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <banijay-group.com> is registered with 123-Reg Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2024. On June 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 25, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 27, 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 July 17, 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 July 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 11, 2024.

The Center appointed Christopher J. Pibus as the sole panelist in this matter on August 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 Complainants Banijay and Banijay Entertainment belong to the Banijay Group, a French multinational television production and distribution company with over 130 production companies across 23 territories, and a multi-genre catalogue of original programming. Headquartered in Paris, the company was founded in January 2008. Since its inception, Banijay Group has created and launched a number of long-running shows, such as Survivor, Who Wants to Be a Millionaire, and Real Housewives. Banijay Group generates revenues from: (i) producing content and live experiences; (ii) distributing content that it has produced or acquired from third parties; and (iii) secondary revenues resulting from commercial activities related to Banijay Group's brands, such as merchandising, sponsorship, licensing, digital partnerships, music and live experiences. The Complainants' business has 4,650 employees worldwide and its 2023 revenue was EUR 4,318 million.

Over time, Banijay Group has developed a significant presence on social media, including a Facebook community of 780,000 users.

In the global entertainment market, the Complainants have protected the intellectual property rights gained through developing and marketing their line of original programming products and services. The Complainants have used their BANIJAY-formative marks in commerce for more than 15 years and own the following registrations among their international portfolio:

- BANIJAY, European Union trademark Registration No. 011198322, dated March 22, 2013, in Classes 9, 16, 28, 38, and 41; and
- BANIJAY GROUP, European Union trademark Registration No. 011198314, dated March 22, 2013, in Class 9, 16, 28, 38, and 41.

The Complainants also own multiple domain names containing the name "banijay", including <banijay.com>.

The disputed domain name was registered on October 27, 2022; initially it resolved to an "Error" page, but currently it redirects to the Complainants' official website.

5. Parties' Contentions

A. Complainant

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that their BANIJAY trademarks are well-known around the world due to the widespread adoption and viewing of their entertainment products and services, resulting in significant sales over the past 15 years. In the circumstances, the Complainants urge the Panel to find deliberate targeting of the famous BANIJAY marks for improper purposes.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, the Complainants must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the Complainants have 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

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 Complainants have shown rights in respect of a trademark or service mark for the purposes of the Policy. The Panel finds that the trademarks BANIJAY and BANIJAY GROUP are distinctive and well-known. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of each 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. The difference between the disputed domain name and the Complainants' trademark is the hyphen after Complainants' trademark and the term "group" at the tail of the disputed domain name, which does not prevent a finding of confusing similarity.

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. In particular the Complainant has provided evidence and submissions to the effect that the Respondent has never been affiliated with or licensed by the Complainant to use the BANIJAY mark in any manner including as part of a domain name. Given the nearly identical nature of the disputed domain name to the Complainants' marks, particularly the BANIJAY GROUP mark, the composition of the disputed domain name carries a risk of implied affiliation that cannot constitute fair use given it effectively suggests endorsement or sponsorship on part of the Complainant, contrary to the fact. [WIPO Overview 3.0](#), section 2.5.1.

Previous UDRP panels have also recognized that the use of a disputed domain name to redirect to Complainant's website is not evidence of Respondent's rights or legitimate interests. See *Skyscanner Limited v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2019-0507](#), and *FXCM Global Services LLC v. WhoisGuard Protected, Whoisguard Inc. / Jenny Sohia*, WIPO Case No. [D2018-1111](#).

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 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 notes that the Respondent must have been aware of the Complainants' trademark rights, as evidenced by the exact replication of the distinctive BANIJAY mark but also the combination mark BANIJAY GROUP, and by the fact that the Respondent has chosen to redirect the disputed domain name to the Complainants' own principal website.

Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark 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.

Panels have also held that the use of a domain name for illegal activity (here impersonation, or other types of fraud), particularly when combined with outright copying of a famous mark, will constitute bad faith. [WIPO Overview 3.0](#), section 3.4. In particular the Panel takes note of the evidence that the Respondent has activated MX records for this disputed domain name, meaning that email servers have been associated to the disputed domain name. The Panel agrees that this conduct, combined with the redirection of the Internet users to the Complainants' own website, indicates that the Respondent most likely intends to lay the ground work for a phishing scheme. Previous UDRP panels have held that such action is consistent with bad faith registration and use of the disputed domain name (See *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#)). See also *Banque Fédérale du Crédit Mutuel v. Nadi Eldo*, WIPO Case No. [D2019-0976](#). Regardless of whether the Respondent actually uses the disputed domain name for said fraudulent email phishing scheme, the Respondent's control over the disputed domain name represents an implied ongoing threat to the Complainant, particularly given the nearly identical nature of the disputed domain name that would reinforce the impersonating nature of any emails being sent therefrom.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under 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 <banijay-group.com> be transferred to the Complainant Banijay Entertainment, as requested.

/Christopher J. Pibus/

Christopher J. Pibus

Sole Panelist

Date: September 5, 2024