

## **ADMINISTRATIVE PANEL DECISION**

Renata Zeiguer v. william william, heng heng  
Case No. D2024-2595

### **1. The Parties**

The Complainant is Renata Zeiguer, United States of America (“United States”), represented by Cole Frieman & Mallon, LLP, United States.

The Respondent is william william, heng heng, Indonesia.

### **2. The Domain Name and Registrar**

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 25, 2024. On June 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 2, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On July 10, 2024, the Complainant filed an amendment to the Complaint.

The Center verified that the Complaint together with the amendment to 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 July 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 20, 2024. The Respondent sent an email communication to the Center on July 4, 2024. The Response was filed on July 13, 2024. On July 18, 2024, the Complainant sent an email communication requesting the suspension of the proceedings, and on July 22, 2024, the Center sent a Notification of Suspension to the Parties. On September 9, 2024, the Complainant sent an email communication requesting the proceedings to be reinstated and the Center sent the Notification of Reinstitution of the Proceeding on the same date.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on October 1, 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 an American singer-songwriter and indie folk musician, originally from New York, United States. The Complainant released an extended play, or "EP", recording in 2013 entitled "Horizons", having previously established herself in the music community of New York City, United States, by performing and recording songs for a variety of artists. The Complainant's first full length album, "Old Ghost", was released in 2018, after which the Complainant was named as one of the top 20 artists of 2018 by Paste Magazine, an Atlanta, United States, music and entertainment magazine. A second EP, "Faraway Business", was released by the Complainant in 2019. Between 2018, and 2019, the Complainant embarked on a national tour of the United States, opening for various artists. Following the release of an album in 2022, "Picnic in the Dark", the Complainant toured the United States from 2022 to 2023 as a headline act, playing at over 50 different venues.

The Complainant performs music and maintains a social media presence under its personal name and is known to a substantial fanbase by such name. For example, under such name, the Complainant has 14,356 monthly listeners on the streaming service "Spotify" including more than one million streams of the Complainant's song "Follow Me Down", over 7,000 followers on Instagram, 660 followers on X (formerly Twitter), and 424 subscribers and over 134,000 viewed videos on YouTube. The Complainant has featured in media interviews and articles reviewing her musical recordings since 2018.

The Complainant contends that it was originally the holder of the disputed domain name and registered it at its original registration date of March 13, 2018. The Complainant appears to have used the disputed domain name to promote its entertainment services for some five years. The Respondent appears to be an entity based in Indonesia. The Complainant further contends that the Respondent acquired the disputed domain name at an auction organized by the Registrar on or about May 13, 2024, after the disputed domain name had been inadvertently allowed to expire when it was in the Complainant's hands. According to a screenshot produced by the Complainant, the disputed domain name points to a website promoting online gambling.

#### **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 it has established unregistered trademark rights to the mark RENATA ZEIGUER as a distinctive identifier associated with the Complainant's musical career, noting that the Complainant has performed, published music, and sold merchandise under such mark for over a decade. The Complainant asserts that it has established a substantial following as a unique artist and under verified presences on its social media accounts, whereby the Complainant required to prove authenticity, uniqueness and completeness of its account and noteworthiness, in the sense of being a well-known, highly searched for person, brand, or entity.

The Complainant asserts that the disputed domain name is practically identical to the Complainant's unregistered mark, which is fully incorporated therein, such that this establishes identity or confusing similarity for the purposes of the Policy.

The Complainant submits that the Respondent is not known as “Renata Zeiguer”, has never demonstrated any rights or legitimate interests in the disputed domain name, has no corresponding registered trademarks or trade names, and has no commercial relationship with the Complainant or other permission to use the Complainant’s unregistered mark in the disputed domain name. The Complainant adds that the Respondent purports to be associated or affiliated with the Complainant via the use of the disputed domain name where no such association or affiliation exists. The Complainant notes that it had become a widely recognized musician under its unregistered trademark long before the disputed domain name was acquired by the Respondent. The Complainant contends that the use of its mark by the Respondent in the disputed domain name amounts to an attempt to gain credibility for the services offered on the associated website by misleading users into believing there is an association between such services and the Complainant.

The Complainant asserts that there is substantial goodwill associated with its unregistered trademark of which the Respondent knew or should have known when it registered the disputed domain name. The Complainant contends that the Respondent is using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion which may arise with the Complainant’s unregistered trademark as to the source, sponsorship, and endorsement of the associated website, constituting evidence of bad faith registration and use under the Policy, adding that the Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant. The Complainant concludes that the Respondent registered the disputed domain name knowingly, willfully, and in bad faith.

## **B. Respondent**

The Respondent’s contentions are brief and may be repeated verbatim:

“We agree to cancel this domain. The domain is already locked by [the Registrar]. Transfer can’t be initiated by us until [the Registrar] open the lock to this domain. When transfer is available. Please note that this domain is purchased legally through [the Registrar’s] auction. It is by complainant fault that this domain expire and become eligible to be sold by [the Registrar]. At the time of purchase the knowledge of Renata Zeiguer as a famous singer is unknown to me.”

## **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 Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3. In situations where a personal name is being used as a trademark-like identifier in trade or commerce, the complainant may be able to establish unregistered or common law rights in that name for purposes of standing to file a UDRP case where the name in question is used in commerce as a distinctive identifier of the complainant’s goods or services. [WIPO Overview 3.0](#), section 1.5.2.

Here, the Complainant has produced evidence demonstrating that the mark RENATA ZEIGUER constitutes a distinctive identifier which consumers associate with the Complainant’s goods and services. The [WIPO Overview 3.0](#), section 1.3, provides that relevant evidence demonstrating acquired distinctiveness may include a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys. The Complainant produced sufficient evidence in the present case covering the Complainant’s use of the mark for over a decade

associated with widely released and streamed musical recordings and extensive live music performances, past use of the disputed domain name itself, and a supporting verified social media presence of a substantial nature, all under the name and mark RENATA ZEIGUER.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Respondent’s proposal in the Response to cancel the disputed domain name in the face of the Complainant’s contentions rather than putting forward any assertion of rights or legitimate interests speaks volumes to the Panel. Notably, the Respondent has not shown that it is commonly known by the disputed domain name or is making legitimate noncommercial or fair use of it. Regarding the documented use of the disputed domain name by the Respondent to resolve to an online gambling webpage, which is commercial in nature, this could not be regarded as a bona fide offering of goods or services since it seeks to free ride on the goodwill established by the Complainant in its RENATA ZEIGUER unregistered mark. The Panel considers that the Respondent’s intention in registering and using the disputed domain name was to benefit commercially from Internet traffic which the Complainant built up due to its activities as a musician, which attracted a substantial fanbase over the period when the Complainant was the holder of the disputed domain name. Registration of the disputed domain name with such an intention would not confer rights or legitimate interests upon the Respondent within the meaning of the Policy.

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 acquired the disputed domain name at an expired domain name auction and thereafter pointed the associated website to a site promoting gambling. There is no obvious association on the present record between the name in the disputed domain name and such services. However, there is a clear association between such name and the Complainant’s substantial

activities in live and recorded music as evidenced in the Complaint and the Complaint's Annexes. While the Respondent claims not to have known anything of the Complainant prior to receiving notice of the Complaint, the evidence suggests that this is not particularly credible due to the Complainant's longstanding musical activities and notoriety (including via the disputed domain name itself). In any event, the Respondent was aware that the disputed domain name had previously been registered by a third party and had expired. The Respondent was therefore engaged in "drop catching", at least in the sense that it acquired a domain name at auction which it knew had recently been allowed to lapse. As the panel noted in *Supermac's (Holdings) Limited v. Domain Administrator, DomainMarket.com*, WIPO Case No. [D2018-0540](#), "Where registration occurs through drop-catching, the registrant is objectively aware that another person held the registration immediately prior. This, in effect, puts the registrant on notice that another person (the immediately prior registrant) may have rights in a trademark to which the domain name is identical or confusingly similar. Where, as in this case, the drop-catching registrant fails to take any steps to determine if such rights exist, then the registrant is taking the risk that such rights do exist".

Here, the Panel finds that the Complainant's rights existed as at the date of acquisition of the disputed domain name by the Respondent, and that the Respondent knew or ought to have known of such. The disputed domain name contains a distinctive name, and the Panel is satisfied that even the most cursory Internet search would have disclosed to whom such name belonged, and the substantial unregistered trademark rights that had accrued to the Complainant under such name. If the Respondent is to be believed, it made no attempts whatsoever to determine if such rights existed, and it must bear the risk and consequences of the fact that substantial rights do exist. The Respondent cannot deliberately turn a blind eye to such rights and at the same time maintain that it has acted in good faith when registering the disputed domain name. Consequently, the Panel finds that the disputed domain name was registered in bad faith.

The Respondent has pointed the disputed domain name to a website featuring various gambling activities. There is no logical link between the name in the disputed domain name and such services. As the Panel indicated in the preceding section, it is reasonable to infer that the Respondent's purpose in using the disputed domain name was to benefit unfairly from the substantial Internet traffic that the Complainant is likely to have generated by the goodwill which has arisen as a consequence of the Complainant's live and recorded music activities. The Panel finds that the Respondent has attempted to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. This constitutes evidence of registration and use in bad faith in terms of paragraph 4(b)(iv) of the Policy.

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 <renatazeiguer.com> be transferred to the Complainant.

*/Andrew D. S. Lothian/*

**Andrew D. S. Lothian**

Sole Panelist

Date: October 15, 2024