

## ADMINISTRATIVE PANEL DECISION

Société d'Exploitation de la Tour Eiffel (SETE) v. Toni Rubio, Itcubation SL  
Case No. D2024-2681

### 1. The Parties

The Complainant is Société d'Exploitation de la Tour Eiffel (SETE), France, represented by Harlay Avocats, France.

The Respondent is Toni Rubio, Itcubation SL, Spain, represented by Lucas, Campins & Henry, Spain.

### 2. The Domain Name and Registrar

The disputed domain name <eiffeltickets.org> is registered with Arsys Internet, S.L. dba NICLINE.COM (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 1, 2024. On July 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 3, 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 (Itcubation SL / REDACTED FOR PRIVACY) and contact information in the Complaint.

The Center sent an email communication to the Complainant on July 5, 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 10, 2024.

Additionally, on July 5, 2024, the Center informed the parties in Spanish and English, that the language of the registration agreement for the disputed domain name is Spanish. On July 5, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2024. The Respondent sent an email communication to the Center on August 1, 2024, consenting to transfer the disputed domain name to the Complainant.

Upon request from the Complainant, the proceedings were suspended on August 15, 2024, for purposes of settlement discussions. The Complainant sent an email communication to the Center on November 14, 2024, claiming that no agreement was reached, and requesting the proceedings to be reinstated. The proceedings were reinstated by the Center on November 15, 2024.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on November 26, 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.

### **3.1. Language of the Proceedings**

The Complaint was filed in English.

In accordance with paragraph 11 of the Rules, the language of the proceedings is to be Spanish, unless otherwise agreed by the Parties, and subject to the Panel's decision, considering the circumstances of the case.

The Complainant requested English to be the language of the proceedings, arguing that: (i) the content displayed on the website to which the disputed domain name resolved is written in English, which evidences that the Respondent understands English and targets potential international clients; (ii) the disputed domain name incorporates the English word "tower"; (iii) neither the Complainant nor its representatives have proficiency in Spanish, and so translating the Compliant would cause unfairness and unwarranted delay for the Complainant; and (iv) English is understandable by both Parties. The Complainant argued that, because of the foregoing reasons, it would not be unfair to proceed in English rather than Spanish (and cites *Groupe Auchan v. Yang Yi*, WIPO Case No. [D2014-2094](#), and *Orlane S.A. v. Yu Zhou He/ He Yu Zhou*, WIPO Case No. [D2016-1763](#).)

The Respondent did not reply to the Complainant's communication regarding the language of proceedings, nor to the arguments comprised in the Complaint relating to this topic.

Therefore, there is no agreement between the Parties on the language of the proceedings.

The Panel notes that the website to which the disputed domain name has resolved has displayed content written in English, as well as that the Respondent was able to comprehend the Complaint in English, so as to be able to respond to it. Taking these facts into account, and that the Complainant is a French entity, being that the Respondent is an individual residing in Spain, it is reasonable to infer that English is a neutral language in which both Parties are able to communicate.

Therefore, and in order to preserve the spirit of the Policy, which is to provide an agile, expeditious, and low-cost proceeding, the Panel decides that, in accordance with the powers granted under paragraph 11 of the Rules, the language of the proceedings shall be English (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

### **4. Factual Background**

The Complainant is a French company in charge of the touristic management of the Eiffel Tower, in the name and on behalf of the City of Paris, whose mission arises from the City's entrustment of the operation of said property to the Complainant, as set forth in the public service delegation agreement executed between

the City of Paris and the Complainant on October 25, 2017, by means of which, among other things, the City of Paris licensed its EIFFEL TOWER trademarks to the Complainant, authorized the Complainant to register domain names using these trademarks, and appointed the Complainant as its exclusive service provider for the effect of managing this landmark monument.

Consequently, the City of Paris is the owner, and the Complainant is the licensee of the following trademarks:

Trademark	Registration No.	Jurisdiction	Date of Registration	Class
EIFFEL TOWER	3968414	France	October 11, 2013	Class 3, Class 4, Class 6, Class 8, Class 9, Class 11, Class 13, Class 14, Class 16, Class 18, Class 19, Class 20, Class 21, Class 22, Class 24, Class 25, Class 28, Class 29, Class 30, Class 32, Class 33, Class 34, Class 35, Class 39, Class 41 and Class 43.
EIFFEL TOWER	1195393	European Union	June 7, 2013	Class 4, Class 6, Class 8, Class 9, Class 11, Class 13, Class 14, Class 16, Class 18, Class 19, Class 20, Class 21, Class 24, Class 25, Class 28, Class 29, Class 30, Class 32, Class 33, Class 34, Class 35, Class 39, and Class 41.

Furthermore, the Complainant owns the following domain names: <eiffel-tower.com>, <eiffeltower.paris>, <eiffeltower.lighting> and <eiffeltower.pictures>.

The disputed domain name <eiffeltickets.org> was registered on June 22, 2022. The Complainant has submitted evidence (not rebutted by the Respondent) showing that the disputed domain name has resolved to a website wherein information and tickets to the Eiffel Tower have been offered. At the date of writing this decision, the disputed domain name is set to redirect to <eiffeltower.paristickets.org>, a website that makes available information on shows, tickets, history, and other elements relating to the Eiffel Tower.

## 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 the following:

#### I. Identical or Confusingly Similar

That the City of Paris, as owner of the EIFFEL TOWER trademarks, has entered into a public service delegation agreement with the Complainant, being one of the Complainant's missions to ensure the protection of intellectual property rights related to the Eiffel Tower and its EIFFEL TOWER trademarks.

That the disputed domain name is confusingly similar to the EIFFEL TOWER trademarks.

That the Eiffel Tower is one of the most famous monuments in the world.

That the predominant and distinctive element in the disputed domain name is “eiffel” which is identically reproduced from the EIFFEL TOWER trademarks. That, given its first position in the disputed domain name, the public will immediately perceive “eiffel” while reading the disputed domain name, being that the word “tickets” is only descriptive and will not catch the public’s attention.

That the disputed domain name is almost identical to the Complainant’s domain names which all contain the word “eiffel”.

That there is a risk of confusion for the general public which could believe the EIFFEL TOWER trademarks and the disputed domain name are connected or belong to the same entity.

That the mere use of a generic Top-Level Domain (“gTLD”) such as “.org” is insufficient to avoid finding a confusingly similarity (and cites *International Olympic Committee and Tokyo Organising Committee of the Olympic and Paralympic Games v. Contact Privacy Inc. Customer 1246395316 / Daniel O’Hare*, WIPO Case No. [D2020-0808](#) and *L’Oréal v. Tina Smith*, WIPO Case No. [D2013-0820](#)).

## II. Rights or Legitimate Interests

That the Respondent does not have any right or legitimate interest regarding the disputed domain name.

That neither the Complainant nor the City of Paris have given the Respondent an authorization to use or reproduce the EIFFEL TOWER trademarks, nor any authorization to register the disputed domain name.

That the Respondent is not commonly known by the disputed domain name and that he has not obtained any trademark or service mark rights in the disputed domain name.

That the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent of commercial gain from misleading customers.

That previous panels have found that, in the absence of any license or authorization from a complainant to use its previously registered trademarks, no actual or contemplated bona fide or legitimate use of the domain can be claimed by a respondent (and cites *International Business Machines Corporation v. Chen Hui, Gname*, WIPO Case No. [D2021-0240](#) and *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

That the Respondent did not reply to the Complainant’s cease and desist letters, which can be an indication of a lack of legitimate rights or interests (and cites *The RMR Group LLC v. Registration Private, Domains BY Proxy, LLC / Rakesh Singh*, WIPO Case No. [D2019-1364](#) and *Nordstrom, Inc., and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#)).

## III. Registered or Used in Bad Faith

That the Complainant has rights to the EIFFEL TOWER trademarks, which were registered before the date of registration of the disputed domain name. That the Complainant owns several domain names consisting of the terms “eiffel tower” such as <eiffel-tower.com>.

That paragraph 2 of the Policy provides that “[It] is your responsibility to determine whether your domain name registration infringes or violates someone else’s rights”, and that therefore, the Respondent should have conducted a search in order to avoid the registration of a trademark-abusive domain name. That, given that the Eiffel Tower is the most renowned symbol of Paris and France, the Respondent could not have been ignorant of the Complainant’s rights.

That a simple search via a search engine would have revealed the existence of the Complainant's products and services.

That it is highly likely that the Respondent knowingly disregarded the Complainant's prior rights.

That, considering that the EIFFEL TOWER trademarks are well known throughout the world, it is implausible that the Respondent could have arrived independently at the disputed domain name, or chosen by chance to register said disputed domain name, and that it is highly likely that the Respondent knew of the EIFFEL TOWER trademarks at the time of registering said disputed domain name.

That paragraph 2 of the Policy also states that "By applying to register a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and warrant to us that [...] b) to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party; [...]". That the Respondent registered the disputed domain name despite the Complainant's prior rights, and that given all these reasons, the Respondent registered the disputed domain name in bad faith.

That the Respondent is also using the disputed domain name in bad faith since it has resolved to a page showcasing the Eiffel Tower and pretending to sell tickets to "skip the line" for visiting said monument.

That said use is problematic, since it suggests that it is an official ticket resale website, misleading the public who could believe that it is an official site of the Eiffel Tower, whereas the Respondent does not have any authorization or accreditation to do so.

That it is implausible to think that the Respondent did not know the Complainant's licensed EIFFEL TOWER trademarks, which could not be further ignored following the Respondent's reception of the Complainant's cease and desist letter, to which the Respondent never replied.

That the Respondent registered or acquired the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's licensed EIFFEL TOWER trademarks.

## **B. Respondent**

The Respondent replied to the Complaint in Spanish. However, the Respondent did not reply to the Complainant's contentions. On the contrary, in a mere item III entitled "Consent to the requested remedies", the Respondent stated that "The Respondent consents to the remedy requested by Complainant and agrees to the transfer to Complainant of the disputed domain name", and in a subsequent item IV entitled "Administrative Panel", the Respondent said that "The Respondent understands that it is not necessary to appoint a panelist by reason of the Respondent's acquiescence in Complainant's claim as expressed above".

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets out the three requirements that the Complainants must prove in order to successfully request remedies:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark to which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in connection to the disputed domain name; and
- (iii) that the disputed domain name has been registered and are 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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the City of Paris' EIFFEL TOWER trademarks, which have been licensed to the Complainant, for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.2.1 and 1.4.

The disputed domain name is confusingly similar to the Complainant's licensed EIFFEL TOWER trademarks because it reproduces its distinctive "eiffel" term, and because the incorporation of the term "tickets" does not prevent a finding of confusing similarity. The Complainant's EIFFEL TOWER trademarks are sufficiently recognizable in the disputed domain name (see [WIPO Overview 3.0](#), sections 1.7 and 1.8; see *Playboy Enterprises International, Inc. v. Zeynel Demirtas*, WIPO Case No. [D2007-0768](#); *InfoSpace.com, Inc. v. Hari Prakash*, WIPO Case No. [D2000-0076](#); *AT&T Corp. v. WorldclassMedia.com*, WIPO Case No. [D2000-0553](#) and *Six Continents Hotels, Inc., Inter-Continental Hotels Corporation v. South East Asia Tours*, WIPO Case No. [D2004-0388](#)).

The addition of the gTLD ".org" to the disputed domain name constitutes a technical requirement of the Domain Name System ("DNS"). Thus, it has no legal significance in assessing identity or confusing similarity in the present case (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#); and *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#) and [WIPO Overview 3.0](#), section 1.11.1.)

Accordingly, the disputed domain name is confusingly similar to the Complainant's licensed EIFFEL TOWER trademarks 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 to 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 to 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 to 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 record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights to or legitimate interests in the disputed domain name. The Complainant has asserted that there is no evidence of the Respondent's use of the disputed domain name in connection with a bona fide offering of goods or services, and that the Respondent has not been licensed or otherwise permitted by the Complainant or the City of Paris to use the EIFFEL TOWER trademarks, or to register the disputed domain name (see *Amdocs Development Ltd. and Amdocs Software Systems Ltd. v. cenk erdogan*, WIPO Case No. [D2023-3044](#); *Amdocs Development Ltd. and Amdocs Software Systems Ltd. v. Nick Lamba*, WIPO Case No. [D2023-2573](#) and *Autodesk, Inc. v. Brian Byrne, meshIP, LLC*, WIPO Case No. [D2017-0191](#)). The Respondent has not rebutted the Complainant's prima facie showing and has not come

forward with any relevant evidence demonstrating rights to or legitimate interests in the disputed domain name such as those listed in the Policy or otherwise.

The case file contains no evidence that demonstrates that the Respondent has used or has made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services (see *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. [D2016-1747](#); and *Associated Newspapers Limited v. Manjeet Singh*, WIPO Case No. [D2019-2914](#)). The provision of a website that, inter alia, offers for sale “skip the line” tickets that falsely suggest an affiliation with the Complainant does not constitute a bona fide offering of goods or services for the purposes of the Policy.

The Panel notes that the Complainant’s allegations regarding the Respondent’s lack of rights or interests on the disputed domain name have been confirmed by the Respondent himself while replying to the Complaint.

In addition, the Panel finds that the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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.

The Panel notes that the dates of registration of the EIFFEL TOWER trademarks significantly precede the date of registration of the disputed domain name.

In the present case, the Panel notes that the Respondent registered the disputed domain name on June 22, 2022, well after the City of Paris obtained its first registrations for its EIFFEL TOWER trademarks, and licensed said trademarks to the Complainant. The Respondent’s bad faith registration is evidenced by the fact that: (1) the EIFFEL TOWER trademarks are famous worldwide, as they distinguish one of the most iconic monuments of the world; (2) said trademarks are registered in several jurisdictions, including the European Union (which comprises Spain, the country where the Respondent has declared to be domiciled); (3) the disputed domain names are confusingly similar to the EIFFEL TOWER trademarks, as they incorporate the term “eiffel” which, even taken independently, clearly references the Parisian monument; and, (4) the Respondent’s use of the disputed domain name has consisted on causing it to resolve to a website which has included information regarding the Eiffel Tower and where tickets have been offered to visit said monument (and skip the line), which facts confirm that the Respondent knew about the EIFFEL TOWER trademarks. This conduct constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L’Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)).

At the date of writing this decision the disputed domain name is set to redirect to the domain name <eiffeltower.paristickets.org>, which the Complainant referred to the Center through an email communication sent on November 14, 2024, wherein the Complainant stated that such domain name resolves to a website identical to the one that the disputed domain name previously resolved to, in an attempt to “try to avoid the consequences of the UDRP proceedings and the loss of the disputed domain name by pursuing the use of the litigious website with another domain [name]”.

The evidence submitted by the Complainant also shows that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the website to which the disputed domain name has resolved, and to the website to which it currently resolves, by creating the impression among Internet users that said websites are related to, associated with, or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO](#)

[Overview 3.0.](#); see also *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. [D2014-0365](#); and *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)).

Based on the available record, the Panel finds the third element of the Policy has been established.

## 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 <eiffeltickets.org> be transferred to the Complainant.

*/Kiyoshi Tsuru/*

**Kiyoshi Tsuru**

Sole Panelist

Date: December 10, 2024