

## **ADMINISTRATIVE PANEL DECISION**

Bal Du Moulin Rouge v. Anthony Wilson, Agenda Communications, LLC  
Case No. D2024-2879

### **1. The Parties**

The Complainant is Bal Du Moulin Rouge, France, represented by Casalonga Avocats, France.

The Respondent is Anthony Wilson, Agenda Communications, LLC, United States of America (“United States”).

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

The disputed domain names <thevegasmoulinrouge.com> and <vegasmoulinrouge.com> are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 15, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 16, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 17, 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 18, 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 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 21, 2024.

The Center appointed Alistair Payne as the sole panelist in this matter on August 27, 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 operates the Moulin Rouge theater where the very well-known cabaret show of the same name has been performed since 1889 and also operates as a venue for dance parties, entertainment, and receptions, offering its services and facilities to groups, companies and individuals. The Complainant owns French trade mark registration 1311105 for MOULIN ROUGE registered on May 3, 1983 and also United States trade mark registration number 77585050 registered on March 15, 2011 and has corresponding registrations in numerous jurisdictions. It has used its MOULIN ROUGE mark continuously in France in connection with its famous cabaret since 1889. It also owns the domain name <moulinrouge.fr> from which it promotes its services and cabaret shows and also owns a number of other domain names incorporating its MOULIN ROUGE mark, including <moulinrouge.com> and <moulin-rouge.com> both registered in 1998.

The disputed domain names <vegasmoulinrouge.com> and <thevegasmoulinrouge.com> were both registered on February 13, 2023, and both re-direct to a Registrar-parking site which contains pay-per-click (“PPC”) links to various shows, including in Paris and to those of direct competitors of the Complainant’s such as the “Lido de Paris”.

#### **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 names.

Notably, the Complainant contends that its MOULIN ROUGE trade mark is entirely reproduced within each of the disputed domain names and each of them are confusingly similar to its registered trade mark. It says that the addition respectively in the disputed domain names of either “vegas” or “thevegas” does not distinguish each of the disputed domain names and does not prevent a finding of confusing similarity in relation to each of them.

The Complainant submits that it has no relationship with Anthony Wilson or Agenda Communications, LLC and has not authorised the use of its trade marks in any respect, including for use in the disputed domain names. It notes that the disputed domain names do not include any name relating to the Respondent and that there is no evidence that the Respondent is or has been known by each of the disputed domain names.

It notes that each of the disputed domain names re-direct to parking sites which feature PPC links related to shows and in particular to the websites of competitors such as the “Lido de Paris” and asserts that this does not amount to evidence of bona fide use of each of the disputed domain names as the Respondent is misleadingly diverting consumers searching for the Complainant’s products and services.

It also asserts that the fact that the Respondent hides its identity through a proxy service and that Anthony Wilson appears to own a wide variety of various domain names, including some compositions with sexual connotations, also demonstrate that it has no rights or legitimate interests in respect of the disputed domain names.

It says that in view of the substantial worldwide degree of reputation attaching to its mark the Respondent must have been aware of its MOULIN ROUGE mark and business when it registered each of the disputed domain names in 2023 long after the registration of the Complainant’s marks and domain names. It says

that the Respondent is attempting to disrupt the Complainant's business and to attract Internet users so to gain commercially by offering PPC links, which clearly demonstrates the Respondent's bad faith in registering and using each of the dispute domain names in terms of paragraph 4(b)(iv) of the Policy. The Complainant also asserts that the registration of a domain name that is confusingly similar to a well-known trade mark by any entity that does not have a relationship with the mark can amount to sufficient evidence of bad faith registration and use.

## **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 trade mark and the disputed domain names. 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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognisable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The respective addition in the disputed domain names of either "vegas" or "thevegas" does not distinguish them and 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.

The Complainant has submitted that it has no relationship with Anthony Wilson or Agenda Communications, LLC and has not authorised their use of its trade marks in any respect including for use in the disputed domain names. It has further asserted that the disputed domain names do not include any name relating to the Respondent and that there is no evidence that the Respondent is or has been known by each of the disputed domain names.

Each of the disputed domain names re-directs to a parking site which features PPC links related to shows and in particular to the websites of competitors such as the "Lido de Paris". The Panel agrees with the Complainant that this does not amount to evidence of bona fide use of each of the disputed domain names

as the Respondent is misleadingly diverting consumers searching for the Complainant's products and services.

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 names. 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 names 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 disputed domain names were both registered in February 2023 long after the registration of the Complainant's trade marks. Considering the very significant degree of reputation attaching to the MOULIN ROUGE mark as a result of use internationally over a long period of time it is most likely that the Respondent was well aware of the Complainant's mark and business when it registered the disputed domain names.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain names in bad faith where the Respondent has used the disputed domain names to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

Each of the disputed domain names divert Internet users to a parking pay-per click site which features links related to shows and in particular to the websites of competitors of the Complainant such as the "Lido de Paris". Internet users seeing the disputed domain names are likely to be confused into thinking that they will lead to websites operated by or authorised by the Complainant as owner of the MOULIN ROUGE mark and business but will instead be provided a set of links of which some will lead to competitor show sites. It is most likely that both PPC sites generate revenue for the Respondent and are therefore commercial and the Panel finds that this use of each of the disputed domain names therefore satisfies paragraph 4(b)(iv) of the Policy which is evidence of registration and use in bad faith.

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 names <thevegasmoulinrouge.com> and <vegasmoulinrouge.com> be transferred to the Complainant.

*/Alistair Payne/*

**Alistair Payne**

Sole Panelist

Date: September 10, 2024