

## **ADMINISTRATIVE PANEL DECISION**

### **Paramount Pictures Corporation v. Openings Paramount, Paramount Global Case No. D2024-3805**

#### **1. The Parties**

Complainant is Paramount Pictures Corporation, United States of America (“United States” or “U.S.”), represented by Paramount Global, United States.

Respondent is Openings Paramount, Paramount Global, United States.

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

The disputed domain name <openings-paramount.com> is registered with Tucows Inc. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 18, 2024. On September 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 18, 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 Complainant on September 20, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 23, 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 September 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 24, 2024.

The Center appointed Scott R. Austin as the sole panelist in this matter on October 29, 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 following facts appear from the Complaint (as amended) and its annexes, which have not been contested by Respondent.

Complainant is a producer and global distributor of filmed entertainment and a subsidiary of global mass media company Paramount Global (“PG”), which through Complainant and its affiliates creates and distributes premium content across a variety of platforms in more than 180 countries. Complainant has since 1912 produced and distributed motion pictures and entertainment content under the trade name and trademark PARAMOUNT PICTURES and the PARAMOUNT “family” of marks (the “PARAMOUNT Marks”), including some of the most critically acclaimed and top grossing movies of all time: the *Mission: Impossible* franchise, *The Godfather* trilogy, the *Star Trek* franchise, *Top Gun*, *Ghost*, *Titanic* and *Forrest Gump* among others.

Complainant is the owner of a number of trademark registrations for the PARAMOUNT Marks with the U.S. Patent & Trademark Office (“USPTO”) and around the world for its entertainment products and services, including the following:

United States Registration No. 0103248, PARAMOUNT PICTURES (words plus design), registered on March 23, 1915, for motion pictures in International Class 9, claiming a first use date of September 17, 1914; and

United States Registration No. 1695847, PARAMOUNT (words plus design), registered on June 23, 1992, for a range of entertainment content products and services in International Classes 9 and 41, claiming a first use date of September 22, 1989; and

United Kingdom Registration No. UK00000392227, PARAMOUNT PICTURES (words plus design), registered on June 12, 1919, for cinematographic film for exhibition in International Class 9; and

Australia Registration No. 78959, PARAMOUNT, registered on February 20, 1942, for cinematograph films bearing finished pictures in International Class 9.

Complainant also shows it incorporates the PARAMOUNT Mark into the official domain name <paramount.com> (the “Official PARAMOUNT Mark Domain Name”) which it owns and licenses to PG for the dissemination of company information as well as global employee accounts. Since 1993, the Official PARAMOUNT Mark Domain Name has been used to operate the official Paramount website associated with the domain name (the “Official PARAMOUNT Mark Website”) which PG uses today for PG’s global businesses and brands including Complainant, BET, CBS Studios, CBS Network, CBS Sports, CBS News, Comedy Central, MTV, Nickelodeon, Paramount+, Paramount Network, PlutoTV, Showtime Networks, Smithsonian Channel, TV Land, among others, as well as news, corporate and investors information and career opportunities.

Complainant asserts that the PARAMOUNT Marks are famous based on the findings of at least one prior UDRP panel decision. See, e.g., *Viacom International Inc. and Paramount Pictures Corporation v. Ramon Burnell*, WIPO Case No. [D2018-0261](#).

Respondent registered the disputed domain name on August 7, 2024, and it resolves to an inactive website with no content, but Complainant shows with redacted email evidence that Respondent used email addresses associated with the disputed domain name to engage in a fraudulent email phishing scheme impersonating Complainant’s human resources employees to fraudulently obtain confidential personal information and financial information through a questionnaire requesting such information from targeted individuals seeking job opportunities.

## 5. Parties' Contentions

### A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name: that the disputed domain name is confusingly similar to Complainant's trademark; that Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

### B. Respondent

Respondent did not reply to Complainant's contentions

## 6. Discussion and Findings

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on Complainant to make out its case and it is apparent from the terms of the Policy that Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to cancel a domain name. As the proceedings are administrative, the standard of proof under the Policy is often expressed as the "balance of the probabilities" or "preponderance of the evidence" standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.2.

Thus, for Complainant to succeed it must prove within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
2. Respondent has no rights or legitimate interests in respect of the disputed domain name; and
3. The disputed domain name has been registered and is being used in bad faith.

The Panel finds that Complainant has met its burden in all three elements of the Policy and will deal with each of these elements in more detail below.

### 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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Panel finds Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. Trademark registration evidence has been submitted in the form of electronic copies of valid and subsisting trademark registration documents in the name of Complainant referenced in section 4 above and therefore, Complainant has demonstrated it has rights in the PARAMOUNT Marks. Ownership of a nationally registered trademark constitutes prima facie evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1; see *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#); see also *Janus International Holding Co. v. Scott Rademacher*, WIPO Case No. [D2002-0201](#).

[WIPO Overview 3.0](#), section 1.8 provides: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”

While the addition of the initial term here, “openings” and a hyphen leading Complainant’s PARAMOUNT Mark, may bear on assessment of the second and third elements, the Panel finds the addition of such term and diacritical mark within the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and Complainant’s mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. See *Advance Magazine Publishers Inc. v. Arena International Inc.*, WIPO Case No. [D2011-0203](#); see also *Citrix Systems, Inc. v. Registration Private, Domains By Proxy, LLC / Name Redacted*, WIPO Case No. [D2020-1255](#).

Prior UDRP panels have also found the inclusion of a hyphen in the disputed domain name also does not change the recognition that the disputed domain name is confusingly similar to Complainant’s PARAMOUNT Marks. See, e.g., *Facebook, Inc. v. Ramunas Jonikas*, WIPO Case No. [D2018-1045](#) (inclusion of a hyphen “irrelevant” for purposes of the Policy) and Top-Level Domains, such as “.com” and “.net”, being viewed as a standard registration requirement, may typically be disregarded under the first element analysis. See [WIPO Overview 3.0](#), section 1.11.1; see also *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#); *L’Oréal v. Tina Smith*, WIPO Case No. [D2013-0820](#).

The Panel finds Complainant’s PARAMOUNT Mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the PARAMOUNT Mark for the purposes of the Policy. Based on the available record, 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While 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 often impossible 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. 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

First, Complainant asserts that Respondent is not sponsored by or affiliated with Complainant in any way, nor is Respondent licensed, or otherwise authorized, be it directly or indirectly, to register or use, the PARAMOUNT Marks in any manner whatsoever, including in, or as part of, a domain name.

Furthermore, prior UDRP panels have held that domain names that consist of a trademark to a complainant’s well-known trademark plus an additional term carry a risk of implied affiliation, and that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. In this case, the Panel has found in Section 6.A. above that the disputed domain name is confusingly similar to Complainant’s PARAMOUNT Mark and to Complainant’s Official PARAMOUNT Mark Domain Name, <paramount.com>.

Most importantly, Complainant contends, and its evidence shows that although the disputed domain name does not resolve to an active website, Respondent's fraudulent activities undermine any claim of rights and legitimate interests. Respondent configured the disputed domain name as part of a fraudulent scheme to create the false impression that emails sent under the disputed domain name were sent by Complainant's human resources employees to fraudulently obtain confidential personal information and financial information through a questionnaire requesting such information from targeted individuals seeking job opportunities and thereby purportedly extract money from unsuspecting third parties believing Respondent to be Complainant. Prior UDRP panels have held that impersonating a complainant by using a disputed domain name as part of an email address in furtherance of a fraudulent scheme constitutes prima facie evidence of a lack of rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.13; see also, *Archer-Daniels-Midland Company v. Hei Ze Shang Zi*, WIPO Case No. [D2021-1865](#); *Apax Partners LLP v. WhoisGuard Protected, WhoisGuard, Inc. / GregTapper*, WIPO Case No. [D2020-0414](#).

Essentially it is a well-established principal according to a consensus of UDRP Panels that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) such as the fraudulent email scheme found here, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

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

Complainant contends that because Respondent has created a domain name that is confusingly similar to Complainant's PARAMOUNT Mark, as well as Complainant's Official PARAMOUNT Mark Domain Name, as found in section 6.A. above, it is implausible to believe that Respondent did not have actual knowledge of Complainant's mark when it registered its confusingly similar disputed domain name. UDRP panels have consistently found that the mere registration of a disputed domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See, [WIPO Overview 3.0](#), section 3.1.4.

Complainant contends that the PARAMOUNT Marks are famous based on the findings of at least one prior UDRP panel decision. See, e.g., *Viacom International Inc. and Paramount Pictures Corporation v. Ramon Burnell*, WIPO Case No. [D2018-0261](#). Given the trademark evidence submitted shows Complainant's PARAMOUNT Mark has been in use for over a century and is registered in counties around the world it is reasonable for this panel to conclude Complainant's PARAMOUNT Mark is famous for purposes of this UDRP proceeding.

The Panel also notes here additional factors under section 3.1.4 and its cases from which the Panel may infer bad faith registration:

- (i) Respondent's clearly intentional addition of the descriptive term "openings" to the disputed domain name, a term, which could easily be considered by consumers searching for Complainant to relate to Complainant's motion picture, television and related entertainment services as a term implying "opening night" or a premiere of a coming attraction, to create a subterfuge version of both Complainant's PARAMOUNT Mark and its official domain name to confuse consumers searching for Complainant, as well as email recipients in Respondent's fraudulent phishing scheme discussed in section 6.B.;
- (ii) the lack of Respondent's rights to or legitimate interests in the disputed domain name registered to engage in per se illegitimate activity for commercial gain; and
- (iii) Respondent's masking of its identity through the use of a privacy registration service, Domains By Proxy, LLC, to perpetuate fraud and prevent itself from being identified, constituting further cumulative evidence of Respondent's bad faith registration and use of the disputed domain name. Prior UDRP panels have held that the use of a privacy registration service to mask a respondent's identity can also serve "as an

indication of bad faith". [WIPO Overview 3.0](#), Section 3.6; *Morrison & Foerster LLP v. Vero Nica, Latvec P.C.*, WIPO Case No. [D2022-3381](#).

Given the circumstances of this case, such a showing is sufficient to establish bad faith registration. See, [WIPO Overview 3.0](#), section 3.2.1. See also, *Sanofi, Genzyme Corporation v. Domain Privacy*, WIPO Case No. [D2016-1193](#); *dm- drogerie markt GmbH + Co. KG v. Aleksey Maksimiyuk*, WIPO Case No. [D2011-0589](#).

Bad faith use is also clear from Respondent's illegitimate conduct engaging in impersonation and passing off of Complainant by Respondent to further a fraudulent email scheme as discussed in detail above, sending fraudulent emails under the name of Complainant and its HR employees suggesting an affiliation with Complainant to fraudulently obtain personal and financial information from unsuspecting job candidates for Respondent's commercial gain. See, [WIPO Overview 3.0](#), section 3.1.4.; see also, *Apax Partners LLP v. WhoisGuard Protected, WhoisGuard, Inc. / Greg Tapper, supra*; *Virgin Enterprises Limited v. Vincent Battista*, WIPO Case No. [D2018-1416](#).

For these reasons, the Panel finds bad faith registration and use, and Complainant has met its burden under paragraph 4(a)(iii) 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 <openings-paramount.com> be transferred to Complainant

*/Scott R. Austin/*

**Scott R. Austin**

Sole Panelist

Date: November 14, 2024