

## **ADMINISTRATIVE PANEL DECISION**

beIN Media Group LLC v. ossama amoussi, chichaoua street 14  
Case No. D2024-4219

### **1. The Parties**

The Complainant is beIN Media Group LLC, Qatar, represented by Tmark Conseils, France.

The Respondent is ossama amoussi, chichaoua street 14, Morocco.

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

The disputed domain name <todwatch.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 14, 2024. On October 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. The same day, 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 October 16, 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 October 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 October 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 11, 2024. The Respondent sent a number of communications, including a Response, on October 17, 2024, then sent follow-up communications on October 22, 2024.

The Center appointed Jeremy Speres as the sole panelist in this matter on November 19, 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 a media group founded in 2003, broadcasting major sport events and entertainment in its broadcasting territories, which comprise countries in the Middle East and North Africa (including the Respondent's country of Morocco), Europe, Southeast Asia, Australasia, North America, and Turkey. In January 2022, the Complainant launched a streaming media subscription platform named TOD targeting customers in the Middle East and North Africa, including Morocco. The TOD service operates from the Complainant's domain name <tod.tv>, which the Complainant registered in September 2021.

The Complainant's TOD mark is registered in numerous jurisdictions, including Morocco Trademark Registration No. 232671 TOD in classes 9, 38 and 41, having a registration date of October 7, 2021.

The disputed domain name was registered on August 24, 2023, and currently resolves to a website entitled "TODWATCH" offering streaming movies. The Complainant's evidence establishes that that website previously included a logo that was almost identical to the Complainant's own TOD logo.

#### **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 the disputed domain name was registered and has been used in bad faith in order to take advantage of confusion with the Complainant's well-known TOD mark.

##### **B. Respondent**

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name. The following statement characterizes the Respondent's responses:

"I registered the domain todwatch.com on August 24, 2023, intending to create a platform for viewing digital content. The term 'TOD' was intended as a general abbreviation for 'time' or 'watching.' I was unaware at the time that 'TOD' was a trademark owned by beIN Media Group."

#### **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 Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The entirety of the TOD 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. Although the addition of other terms, here "watch", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a

finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

For the reasons discussed in relation to bad faith below, it is likely that the Respondent acquired the disputed domain name to take advantage of confusion with the Complainant’s mark. The Respondent’s acquisition and use of the disputed domain name in these circumstances cannot represent a bona fide offering of goods or services under paragraph 4(c)(i) of the Policy and cannot confer rights or legitimate interests. *Sistema de Ensino Poliedro Vestibulares Ltda., Editora Poliedro Ltda. v. Anonymize, Inc. / STANLEY PACE*, WIPO Case No. [D2022-1981](#).

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.

For the following reasons, the Panel finds that it is more likely than not that the Respondent registered and has used the disputed domain name to take advantage of confusion with the Complainant’s mark for the Respondent’s commercial gain, falling squarely within paragraph 4(b)(iv) of the Policy.

The Complainant’s evidence establishes that its mark was well known, and that the mark was in use in the Respondent’s country of Morocco, prior to registration of the disputed domain name. 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, as in this case) 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.

The Respondent’s previous use of a logo that is nearly identical to the Complainant’s own distinctive logo is quite unlikely to have been a coincidence, especially given the competing nature of the parties’ services.

The disputed domain name contains the word “watch”, which is descriptive of the Complainant’s services. Combined with the fact that the disputed domain name has been used for services that, despite the Respondent’s contentions to the contrary, compete directly with the Complainant, this too points to targeting of the Complainant. [WIPO Overview 3.0](#), section 3.2.1.

That the Complainant’s TOD service was available in and targeted users in Morocco prior to registration of the disputed domain name shows in itself that the Respondent could well have been aware of the Complainant’s service prior to registration of the disputed domain name.

Finally, the Respondent offered to sell the disputed domain name to the Complainant for USD 10,000, an amount greatly in excess of the Respondent’s out-of-pocket costs directly related to the disputed domain name as evidenced in the Response. This suggests that the Respondent’s intention was to sell the disputed domain name to the Complainant all along, which further points to bad faith under paragraph 4(b)(i) 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 <todwatch.com> be transferred to the Complainant.

*/Jeremy Speres/*

**Jeremy Speres**

Sole Panelist

Date: November 29, 2024