

ADMINISTRATIVE PANEL DECISION

Banijay Entertainment and Banijay v. Name Redacted Case No. D2024-4227

1. The Parties

The Complainants are Banijay Entertainment, France and Banijay, France, represented by Domgate, France.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <banijaygroup.com> is registered with Gandi SAS (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on October 14, 2024. On October 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 16, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On October 16, 2024, the Center informed the parties in French and English, that the language of the registration agreement for the disputed domain name is French. On October 18, 2024, the Complainants filed a request for English to be the language of the proceeding. The Respondent did not submit any comment on the Complainants’ submission.

The Center verified that 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”).

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint in both English and French, and the proceedings commenced on October 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 19, 2024.

The Center appointed Fabrice Bircker as the sole panelist in this matter on November 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

Banijay and Banijay Entertainment, collectively referred to as the "Complainants", belong to the Banijay Group, a French multinational television production and distribution company created in 2008, with over 130 production companies across 23 territories, and a multi-genre catalogue of original programming.

Banijay Group has built many long-running shows, such as Big Brother, MasterChef, Survivor, Lego Masters, Touche pas à mon Poste, Who wants to be a millionaire or Don't forget the Lyrics.

The Complainants' business has 4,650 employees worldwide and their 2023 revenue was EUR 4,318 million.

The Complainants' activities are notably protected through the following trademarks registrations that are held by Banijay Entertainment:

BANIJAY, European Union Trade Mark No. 11198322 filed on September 19, 2012, registered on March 22, 2013, and designating products and services of classes 9, 16, 28, 38, and 41;

BANIJAY GROUP, European Union Trade Mark No. 11198314 filed on September 19, 2012, registered on March 22, 2013, and designating products and services of classes 9, 16, 28, 38, and 41.

The Complainants have also an online presence, in particular through the <banijay.com> domain name, which was registered on January 23, 2008.

This domain name is held by Banijay Entertainment and resolves to the official website for the BANIJAY brand.

The disputed domain name, <banijaygroup.com>, was registered on January 24, 2024.

According to uncontested evidence:

- initially it resolved to a page offering it for sale for USD 1,750,
- then, at the time of filing of the Complaint, it resolved to an "Error" page.

When drafting this Decision, it redirects to the Complainants' official website.

Very little is known about the Respondent, except that according to the WhoIs database, its alleged name is close to the Complainants' company name, and it is purportedly located at the same address as the Complainants.

5. Parties' Contentions

A. Complainants

First, the Complainants request that the proceedings be conducted in English, even though French is the language of the registration agreement of the disputed domain name. To that end, they put forward elements intended to demonstrate that the Respondent can communicate in English.

Then the Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name in favor of one of them, namely Banijay Entertainment.

Notably, the Complainants submit that the disputed domain name is confusingly similar to their BANIJAY trademark, because it reproduces the latter, and the added elements do not prevent it from being recognizable within the disputed domain name, and identical to their BANIJAY GROUP trademark.

Besides, the Complainants argue that the Respondent has no rights or legitimate interests in respect of the disputed domain name, in substance because:

- "Banijay" is not a generic term,
- the Respondent is not known under the name "Banijay" or "Banijay Group",
- the Complainants have not licensed or otherwise authorized the Respondent to use the BANIJAY or BANIJAY GROUP trademarks in a domain name or in any other manner,
- the name of the Respondent is likely to impersonate the Complainants but does not match with any existing French company,
- the fact that the disputed domain name was offered for sale and is not used confirms the absence of rights and of legitimate interests of the Respondent.

At last, the Complainants contend that the disputed domain name has been registered and is used in bad faith, notably because:

- the Complainants' rights are well known worldwide, therefore the Respondent couldn't have ignored them when registering the disputed domain name,
- the Respondent has communicated to the Registrar information intended to impersonate the Complainants,
- The Respondent offered the disputed domain name for sale for an amount of money in excess of the out-of-pocket costs directly related to it.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules provides that "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraphs 10(b) and 10(d) of the Rules also provide that "[i]n all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case" and that "[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence".

Besides, the Respondent's failure to reply to the Complainants' contentions does not automatically result in a decision in favor of the Complainants, although the Panel is entitled to draw appropriate inferences therefrom, in accordance with paragraph 14(b) of the Rules (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.3).

Taking the foregoing provisions into consideration the Panel finds as follows:

6.1 Procedural Issues

A. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is French. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainants requested that the language of the proceeding be English for several reasons, including the facts that:

- the disputed domain name is composed of the Complainants' trademark with an English term, namely "group".
- the identity of the Respondent and its email address as provided to the Registrar include English generic terms,
- the offering-for-sale page to which the disputed domain name initially resolved was drafted in English.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs ([WIPO Overview 3.0](#), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

Indeed, the elements put forward by the Complainants, along with the fact that they have not been contested by the Respondent and the fact that the disputed domain name is now redirecting to the Complainants' website which is drafted in English, lead the Panel to consider that, on the balance of the probabilities, the Respondent is in a position to communicate in English.

In view of the above and of the fact that the Respondent was notified in both English and French by the Center of the Complaint and deadlines pertaining to the proceeding as well as the issue of the language of the proceeding, the Panel does not consider it prejudicial to the Respondent if English was adopted as the language of the proceeding.

Therefore, the proceeding would be unduly delayed if the Complaint and annexes thereto had to be translated into French.

In keeping with the Policy's aim of facilitating a relatively time and cost-efficient procedure for the resolution of domain name disputes, the Panel accordingly determines that it is appropriate for English to be the language of the proceeding.

B. Consolidation of Complainants

The Complaint was brought by two Complainants.

In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. [WIPO Overview 3.0](#), section 4.11.1.

In the present situation, the Panel finds that:

- according to uncontested elements, the Complainants belong to the same group of companies,
- one of the Complainants is the owner of the invoked trademarks, whereas the other Complainant is using said trademark (in particular as company name).

As a result, the Panel considers that the Complainants may have a common grievance against the Respondent, and in any case that accepting a consolidated Complaint would not be prejudicial to the Respondent.

Therefore, the Panel permits the consolidation of the Complainants.

6.2 Substantive Issues

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

Based on the available record (Annex 6 of the Complaint), the Complainants have 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 BANIJAY GROUP 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.

Indeed, it is well established that the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

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 Complainants' 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.

Indeed, the Complainants contend that they have not given their consent to the Respondent to use their trademark in a domain name registration or in any other manner.

Besides, there is nothing in the record of the case likely to indicate that the Respondent may be commonly known by the disputed domain name.

Indeed, even if the name provided by the Respondent to the Registrar when registering the disputed domain name includes a part of said disputed domain name of the Complainants' company name, it nevertheless remains that the Complainants have convincingly demonstrated that this was a scheme intended to falsely suggest an affiliation with them.

In particular, it results from the extract of the French Trade and Companies registry communicated by the Complainants that the Respondent's name does not match with any existing French company. Besides, its postal address is that of the Complainants.

Furthermore, none of the uses made of the disputed domain name appears to be legitimate:

- first, it was offered for sale, which is a commercial use. Of course, selling domain names is not illegitimate per se. However, for the purposes of the Policy such an activity has not to infringe upon third parties' rights, in particular in enabling the Respondent to unduly capitalize or trade on the value of a prior trademark.

In the present case, the BANIJAY and BANIJAY GROUP trademarks are intrinsically distinctive and it results from the documents supporting the Complaint that they are well known.

As a consequence, the offering for sale of the disputed domain name which is identical to the Complainants' trademark amounts to capitalizing on the value of the Complainants' trademarks and, therefore, cannot be considered as a legitimate commercial use, and cannot give rise to rights or legitimate interests in the disputed domain name.

- then the disputed domain name was not used (it resolves to an inactive website),
- the nature of the disputed domain name, insofar as it consists of the mere reproduction of one of the Complainants' trademarks, carries a high risk of implied affiliation with the Complainants and tends to suggest sponsorship or endorsement by the latter, reinforced by the current use of the disputed domain name to redirect to the Complainants' own website, whereas the Respondent is not connected to them. This is a further indication of the Respondent's lack of rights and legitimate interests in the disputed domain name ([WIPO Overview 3.0](#), section 2.5.1).

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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.

As regards registration in bad faith, the Panel notes that:

- the registration date and use of the BANIJAY and BANIJAY GROUP trademarks predates the registration of the disputed domain name by more than 10 years,
- "banijay" is a coined word,
- given the extent of their use and their success on the market, the Complainants have established that their trademarks can be considered as well known,
- the disputed domain name is identical to the Complainant's BANIJAY GROUP trademark,
- when registering the disputed domain name, the Respondent has provided the Registrar with a name which is similar to a company name of one of the Complainants and reproducing the BANIJAY trademark and with the Complainants' postal address,
- the disputed domain name currently redirects to the Complainants' own website,

- none of the Complainants' arguments has been denied by the Respondent, who has chosen not to participate in these proceedings.

In this Panel's view, these elements clearly show that the Respondent was necessarily aware of the Complainants' trademarks when it registered the disputed domain name.

As a consequence, the disputed domain name has been registered in bad faith.

As to the use in bad faith, the Panel finds that the disputed domain name:

- was initially ostensibly put for sale at the price of USD 1,750 (what is in the Panel's view and in the absence of evidence to the contrary, likely in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name),
- is identical to the Complainant's prior and distinctive BANIJAY GROUP trademark.

As a consequence, the Panel finds that the present case clearly falls within the scope of paragraph 4(b)(i) of the Policy, namely the Respondent registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring it to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of its out-of-pocket costs directly related to the disputed domain name.

At last, the fact that the disputed domain name was inactive does not prevent a finding of bad faith use.

Indeed, it results from the composition of the disputed domain name insofar as it reproduces the BANIJAY GROUP trademark which is intrinsically distinctive and well known, that it will necessarily be perceived as related with the Complainants.

Furthermore, the Panel has found that there are email server records configured with the disputed domain name².

In such a context, this Panel is of the opinion that the Respondent, which has clearly no rights on the disputed domain name and which has also communicated to the Registrar a postal address corresponding to that of the Complainants, is in a position to send emails unduly impersonating the Complainants.

As a consequence, the Respondent is not only retaining control over the redirection of the disputed domain name by redirecting it to the Complainants' website, but it is using it in a way that represents a threat hanging over the head of the Complainants.

In conclusion, the Panel finds that the third element of the Policy is established.

² It is well accepted that the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the Rules, enable a panel to undertake limited factual research into matters of public record if it considers such information useful to assessing the case merits and reaching a decision (see [WIPO Overview 3.0](#), section 4.8).

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 <banijaygroup.com> be transferred to the Complainant Banijay Entertainment.

/Fabrice Bircker/

Fabrice Bircker

Sole Panelist

Date: December 11, 2024