

## **ADMINISTRATIVE PANEL DECISION**

Universal City Studios LLC v. Погорєлко Денис Андрійович/ Д. Погорєлко,  
ТОВ “ЮНІВЕРСАЛ ПАРК ЮА” D. Pohorielko, Universal Park UA LLC  
Case No. DUA2024-0006

### **1. The Parties**

The Complainant is Universal City Studios LLC, of United States of America (“United States”), represented by Baker McKenzie Ukraine B.V., Ukraine.

The Respondent is Погорєлко Денис Андрійович/ Д. Погорєлко, ТОВ “ЮНІВЕРСАЛ ПАРК ЮА” D. Pohorielko, Universal Park UA LLC, Ukraine.

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

The disputed domain name <universalpark.com.ua> (the “Disputed Domain Name”) is registered with Imena.ua. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 23, 2024. On May 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 31, 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 (Internet Invest, Ltd. dba Imena.ua) and contact information in the Complaint. On May 31, 2024, the Respondent sent a substantive email communication to the Center. The Center sent an email communication to the Complainant on June 3, 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 amendment to the Complaint on June 3, 2024.

On June 3, 2024, the Center informed the Parties in English and Ukrainian, that the language of the registration agreement for the Disputed Domain Name is Ukrainian. On June 3, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent submitted its comment on the Complainant’s submission on June 3, 2024.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of .UA Domain Name Dispute Resolution Policy (the “.UA Policy”), the Rules for .UA Domain Name Dispute Resolution Policy (the “.UA Rules”), and the WIPO Supplemental Rules for .UA Domain Name Dispute Resolution Policy (the “WIPO Supplemental Rules”).

In accordance with the .UA Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent in English and Ukrainian of the Complaint, and the proceedings commenced on June 10, 2024. In accordance with the .UA Rules, paragraph 5(a), the due date for Response was June 30, 2024. On June 24, 2024, the Respondent filed a Response in Ukrainian.

The Center appointed Mariia Koval as the sole panelist in this matter on July 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 .UA Rules, paragraph 7.

#### **4. Further Procedural Considerations – location of the Respondent**

According to the paragraph 10 of the .UA Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent’s mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the .UA Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel considers that there are no grounds for suspension of the proceedings in view of the following.

Prior to the filing of the Complaint, the Disputed Domain Name was used by the Respondent for a website with information regarding some theme and entertainment parks in Ukraine as well as offering of the services related to the theme parks creation.

Moreover, in its email communications sent by the Respondent to the Center on May 31 and June 24, 2024, the Respondent objected to the filed Complaint, having also attached the formal Response to the Complaint. The Panel notes that the Respondent received the Complaint and communications from the Center at the email address confirmed by the Registrar, and thus its email has been functioning properly throughout the proceedings.

Thus, the Panel considers that the Respondent, having actively participated in the correspondence with the Center and in the present proceedings, as well as receiving all necessary correspondence (at least in electronic form) and sending his responses, has the opportunity to participate further in the proceedings.

Thus, the Respondent, in order to properly defend his rights, had the opportunity to provide all available and relevant evidence (in addition to that already provided in the email communications) of his rights and legitimate interests in the Disputed Domain Name, as well as of the good faith of his registration and use of the Disputed Domain Name, if any. The Panel also notes that the manner in which the Disputed Domain Name is being used has changed and, therefore, the Respondent appears to be in a position to control its use.

The Panel therefore concludes that the Respondent, who is allegedly located in Ukraine, has been afforded a fair opportunity to present its case and, in order to ensure that the administrative proceeding is conducted with due expedition, the Panel proceeds with the case.

## 5. Factual Background

The Complainant, founded in 1912, is one of the largest American film production and distribution companies, and is owned by NBCUniversal, a division of Comcast. NBCUniversal owns and operates a valuable portfolio of news and entertainment television networks, a premier motion picture company, significant television production operations, a leading television stations group, world-renowned theme parks, and a premium ad-supported streaming service. Since 1964, the Complainant has used the UNIVERSAL trademark (the “UNIVERSAL Trademark”) specifically in connection with theme parks. Today, the Complainant owns, operates, and licenses the UNIVERSAL Trademark for theme parks throughout the world: four parks in the United States (Universal Studios Florida, Universal Islands of Adventure, Universal Volcano Bay and Universal Studios Hollywood) and parks in China (Universal Beijing Resort), Singapore (Universal Studios Singapore), and Japan (Universal Studios Japan), which have garnered worldwide popularity as entertainment destinations and hosted a combined total of over 30 million visitors in 2022.

The Complainant owns over 600 active UNIVERSAL Trademark registrations in over 70 countries, including Ukraine, among which are:

- Australian Trademark Registration No. 85482, registered on December 5, 1945, in respect of goods in class 9;
- United Kingdom Trademark Registration No. UK00000680489, registered on June 23, 1949, in respect of goods in class 9;
- Ukrainian Trademark Registration No. 2461, registered on November 15, 1993, in respect of goods in classes 9 and 16.

The Complainant has built up a considerable online presence and is operating many domain names, including <universalpictures.com> (registered on December 11, 1996), <universalstudioshollywood.com> (registered on May 17, 2000), <universalorlando.com> (registered on September 19, 1999), <universalstudioslot.com> (registered on September 2, 2015) and many others. The Complainant also operates pages on various social media platforms, particularly Facebook (nearly 32 million followers), Instagram (7 million followers), and X (5 million followers), where the UNIVERSAL Trademark is extensively used and promoted.

The Disputed Domain Name was registered on August 11, 2021. At the date of this Decision, the Disputed Domain Name resolves to an inactive website. However, according to the evidence presented by the Complainant (Annex 6 to the Complaint), the Disputed Domain Name previously resolved to a website which contained an information related to the theme and entertainment park complexes in Ukraine, as well as the services related to the creation of the theme parks and installations, figures and decorations for them.

The Respondent is an applicant for two trademark applications in Ukraine: UNIVERSAL PARK, application No. m202400573, filed on January 12, 2024, in respect of services in class 41; UNIVERSAL PARK in Ukrainian Cyrillic, application No. m202400572, filed on January 12, 2024, in respect of services in class 41.

## 6. 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 is confusingly similar to the Complainant's UNIVERSAL Trademark. The Disputed Domain Name incorporates the Complainant's UNIVERSAL Trademark in its entirety and contains the dictionary word “park”. The presence of the

additional term “park” would not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant’s UNIVERSAL Trademark. The UNIVERSAL Trademark is world-renown and, as such, is instantly recognizable globally.

The Complainant further asserts that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name in view of the following:

- the Respondent must be fully aware that the UNIVERSAL Trademark is well-known global brand, owing to the global advertising, marketing of UNIVERSAL products and services all over the world by the Complainant;
- the Respondent is not affiliated with nor authorized by the Complainant to use the UNIVERSAL Trademark, including in the Disputed Domain Name;
- the Respondent is not subsidiary of the Complainant nor is he currently the Complainant’s authorized Independent Business Owner;
- the Respondent’s website under the Disputed Domain Name does not mention the Respondent’s relationship with the Complainant. In contrast, the UNIVERSAL Trademark is prominently displayed at the Respondent’s website where certain copyrighted movie characters of Universal’s group of companies are also displayed;
- the Respondent has not been commonly known by the Disputed Domain Name;
- the Respondent is also not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain. Instead, the Respondent is using the Disputed Domain Name to confuse, defraud, and misleadingly divert consumers of the Complainant for his own benefit;
- the Respondent has taken unfair advantage of the UNIVERSAL Trademark in which the Complainant has rights, including a substantial reputation from high profile activity, advertising and marketing of the UNIVERSAL branded products.

The Complainant contends that the Respondent registered and is using the Disputed Domain Name in bad faith based on the following:

- the Complainant’s UNIVERSAL Trademark is well known and famous worldwide having been in use for over 100 years and with annual revenue in the billions of USD;
- the only purpose the Respondent could have for registering the Disputed Domain Name would be to illegitimately profit from the association of the domain name with the Complainant;
- the Respondent is clearly portraying itself as a subsidiary or affiliate of the Complainant, when it is not;
- the Respondent intentionally registered and uses the Disputed Domain Name, without consent from the Complainant, to confuse and mislead visitors to his website;
- the Respondent has registered the Disputed Domain Name in order to prevent the Complainant from reflecting its UNIVERSAL Trademark in a corresponding domain name.

## **B. Respondent**

On June 24, 2024, the Respondent submitted a formal Response to the Complainant’s contentions. The Respondent contends that he did not receive any benefit from the use of the Disputed Domain Name because in Ukraine the word “Universal” is not associated with Hollywood Pictures and Universal studios Hollywood.

The Respondent further contends that he categorically disagrees with the Complainant’s statement that “the Disputed Domain Name fully includes the Complainant’s registered UNIVERSAL Trademark” since the Respondent has applied for word trademarks “UNIVERSAL PARK” and “UNIVERSAL PARK in the Ukrainian Cyrillic” (applications Nos. m202400572, and m202400572) and established priority on January 12, 2024. A distinctive feature of the trademarks - the word “park”, unlike the UNIVERSAL Trademark registered by the Complainant, has an independent meaning: Park (from the medieval Latin parricus — “fenced place”) - a plot of land with natural or specially planted vegetation; and the adjective “UNIVERSAL” only indicates that the Respondent is talking about a park of universal (that is, versatile) use by consumers.

The Respondent further asserts that in view of the Complainant has never organized theme parks for entertainment in Ukraine, for ordinary Ukrainians, the Disputed Domain Name is not associated with the Complainant's UNIVERSAL Trademark.

The Respondent also sent an informal email communication in which he stated that "the Universal Park UA company was created in 2019 for the purpose of creating various theme parks in Ukraine. The name was chosen as "universal" since we do various projects in the field of lighting, animatronics, landscape and flowers. Previously, photographs of characters belonging to the company that invented this product were posted on our website. We would like to inform you that these characters were produced and exhibited by a municipal institution from the city hall Kyiv. But after a complaint about placement was written, we immediately deleted it so as not to spoil our reputation. We would like to reiterate that we are not and have attempted to impersonate representatives of Universal Studios. There was never a goal to mislead people that we are representatives of an international company specializing in motion cinema. We also want to add that we do not copy anything, since the style of our company is completely different."

## 7. Discussion and Findings

Paragraph 4(a) of the .UA Policy binds the Complainant to prove each of the following three elements to succeed:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered or is being used in bad faith.

Taking into consideration many similarities between the .UA Policy and the Uniform Domain Name Dispute Resolution Policy ("UDRP"), the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) and, where appropriate, will decide consistent with the consensus views captured therein.

### 7.1 Language of the Proceeding

In accordance with paragraph 11 of the .UA Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Registrar confirmed that the language of the Registration Agreements for the Disputed Domain Name is Ukrainian.

The Complainant filed the Complaint in English and requested English to be the language of this proceeding in view of the following:

- the Respondent advertises and proposes services on its website in Ukrainian, English and Turkish, that demonstrates that the Respondent is familiar with the English language;
- the words "universal" and "park" in the Disputed Domain Name and in the content of the Respondent's website are the words that appear only in the English language;
- the Respondent's familiarity with the English language is evident as he has been sending some emails in English ;
- taking into account the clearly intentional copying of the UNIVERSAL Trademark in the Disputed Domain Name by the Respondent it would not be fair or equitable to require the Complainant to go to the unnecessary time and expense of translating its pleadings into another language.

The Respondent disagreed with the Complainant's proposal that English shall be the language of proceeding, since the Disputed Domain Name is intended primarily for Ukrainian-speaking consumers, and the information provided on the website mainly concerns Ukraine.

Paragraph 10(c) of the .UA Rules sets out that the Panel shall ensure that the administrative proceeding takes place with due expedition.

The Complainant is an American company and is not obviously able to understand and to communicate in Ukrainian. Forcing the Complainant to translate the Complaint and annexes thereto, would result in unfair additional expenses for the Complainant and would delay this 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.

The Disputed Domain Name and country-code Top-Level domain ("ccTLD") comprise Latin script. The Panel has taken into account the facts that the content of the website under the Disputed Domain Name was also available in English, the Respondent communicated with the Center and presented the reasoned response on behalf of his attorney in the English language. This all demonstrates that the Respondent is sufficiently proficient in the English language.

Having considered all circumstances of this case, the Panel concludes under paragraph 11(a) of the .UA Rules that English shall be the language of the proceeding.

#### **A. Identical or Confusingly Similar**

In accordance with paragraph 4(a)(i) of the .UA Policy it should be established that the Disputed Domain Name is identical or confusingly similar to a mark in which the Complainant has rights.

Section 1.2.1 of the [WIPO Overview 3.0](#) makes clear that, where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.

The Panel accepts that the Complainant demonstrated that it has the rights in the UNIVERSAL Trademark in view of a large number of registrations in different jurisdictions, including Ukraine, and more than 80 years use of its Trademark, long before the filing of trademark applications by the Respondent and his registration of the Disputed Domain Name.

The Disputed Domain Name incorporates the UNIVERSAL Trademark in its entirety combined with the descriptive term "park" and ccTLD ".com.ua". In accordance with prior decisions under the .UA Policy, the applicable ccTLD in a domain name is viewed as a standard registration requirement and as such is generally disregarded under the first element confusing similarity test. See *AB Electrolux v. Захаров Евгений*, WIPO Case No. [DUA2020-0006](#). Therefore, the addition of the ccTLD ".com.ua" to the Disputed Domain Name in this case does not prevent a finding of confusing similarity between the Complainant's UNIVERSAL Trademark and the Disputed Domain Name.

According to the section 1.8 of the [WIPO Overview 3.0](#) 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. In this case, the addition of the descriptive term "park" to the UNIVERSAL Trademark does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's UNIVERSAL Trademark.

Furthermore previous .UA and UDRP panels have recognized that incorporation of a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to the complainant's registered mark; see *bridport & cie S.A v. Privatewhois.net, Private Whois bridportadvisory.com*, WIPO Case No. [D2011-2262](#).

In view of the above, the Panel concludes that the Disputed Domain Name is confusingly similar to the Complainant's UNIVERSAL Trademark and therefore, the Complainant has satisfied the first element of the .UA Policy.

## **B. Rights or Legitimate Interests**

According to paragraph 4(a)(ii) of the .UA Policy the Complainant has to establish that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

The applicable standard of proof in .UA cases is the "balance of probabilities" or "preponderance of the evidence"; some .UA and UDRP Panels have also defined it as the "all circumstances considered" standard. Under this standard, a party must demonstrate to the satisfaction of the Panel that the alleged fact is more likely to be true than not.

The Complainant was founded in 1912. The Complainant is the owner of numerous registrations of the UNIVERSAL Trademark all over the world, including Ukraine. The Complainant claims that the Respondent is not affiliated with nor authorized by the Complainant to use previously registered UNIVERSAL Trademark, including in the Disputed Domain Name.

The Respondent seeks to rely on the Respondent's trademark applications in Ukraine and asserts in the Response as follows: "The trademarks "UNIVERSAL PARK" and "UNIVERSAL PARK in the Ukrainian Cyrillic" consist of two verbal blocks, where the logical emphasis is on the word "park". A distinctive feature of the trademarks - the word "park", unlike the trademark "UNIVERSAL" registered by the Complainant, has an independent legal meaning: Park (from the medieval Latin parricus — "fenced place") - a plot of land with natural or specially planted vegetation. And the adjective "UNIVERSAL" only indicates that we are talking about a park of universal (that is, versatile) use by consumers." The Panel notes that the Respondent's trademark applications were filed in 2024 only, that cannot, of itself, give rise to any rights or legitimate interests on the part of the Respondent in the Disputed Domain Name. Pending trademark applications do not, of themselves, confer any rights to the trademarks in respect of which the applications were filed. Given the overall circumstances of this case, including that the Respondent's trademark applications are confusingly similar to the UNIVERSAL Trademark, the Panel considers that such trademark applications have been filed by the Respondent primarily to circumvent the application of the .UA Policy. The Panel also notes that even existence of intellectual property rights in a certain territory does not mean an automatic presumption of rights and legitimate interests in a domain name under the .UA Policy. When considering whether the filing of trademark application or registration of a trademark evidences the existence of a legitimate interest, the following circumstances should be taken into account (see *Fonbet Corp. v. Gennadiy P. Pastushenko*, WIPO Case [DUA2020-0020](#)):

(i) when considering the issue of 'rights or legitimate interests' under paragraph 4(a)(ii) of the .UA Policy, the panel may, where appropriate, question the legitimacy of the trademark referred to by the respondent. The mere fact that the respondent has filed a trademark application or registered a trademark, in accordance with the UDRP practice used in this case by analogy, is not an absolute bar to the complainant's ability to file a complaint. If, in the opinion of the panel, the trademark application or its registration was not made with legitimate or good faith intentions, but only to legitimise the registration of a domain name, such trademark may be disregarded.

(ii) the chronology of events is an important factor in determining whether a trademark registration is bona fide or merely a way to legitimise the respondent's right to the domain name. The filing of a trademark application after the notification of a dispute or the registration of a domain name may indicate a lack of legitimate interest.

(iii) the respondent's knowledge and intentions at the time of registration of the disputed domain name are important, but knowledge of the complainant's rights does not by itself preclude the respondent from having a right or legitimate interest in the domain name.

(iv) the connection (or lack thereof) between the respondent and the jurisdiction in which it seeks to register the trademark may indicate whether the trademark application or registration is "legitimate".

In the present proceedings, the Complainant's UNIVERSAL Trademark was first registered in 1946 in respect of services in class 41, including several Ukrainian Trademark registrations from 1993.

The Respondent's Ukrainian trademark applications Nos. m202400572, m202400572 for word trademarks "UNIVERSAL PARK" and "UNIVERSAL PARK in Ukrainian Cyrillic" have been filed on January 12, 2024, also in respect of services in class 41.

The Panel takes into account the fact that the Complainant's UNIVERSAL Trademark is well-known and has been continuously and widely used more than 80 years for, among others, the services in class 41.

As of the date of this Decision, the Disputed Domain Name resolves to an inactive website. The Complainant has provided evidence (Annex 6 to the Complaint) that as of the date of filing the Complaint, the Disputed Domain Name resolved to the Respondent's website which contained an information related to the existed theme and entertainment park complexes in Ukraine, as well as the services related to the creation of installation, figures and decorations for the theme parks. The Respondent claims that his company was founded in 2019 for the purpose of creating various theme parks in Ukraine. At the same time according to the Complainant the Respondent used on his website certain copyrighted movie characters belonging to the Universal's Group of companies. The Respondent states that after the Complaint has been filed, he deleted photographs of the characters belonging to his company from the website so as not to tarnish his reputation. The Panel concludes that the Respondent has failed to show that it has acquired any genuine trademark rights in respect of the Disputed Domain Name or that the Disputed Domain Name has been used in connection with a bona fide offering of goods or services.

According to the section 2.8 of the [WIPO Overview 3.0](#), panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Oki Data test", the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark. Cases applying the Oki Data test usually involve a domain name comprising a trademark plus a descriptive term (e.g., "parts", "repairs", or "location"), whether at the second-level or the top-level.

Having carefully analyzed the materials available in the proceedings, the Panel found that the Respondent's actions did not meet, in particular, the above criteria (iii) and (iv).

Furthermore, the Panel finds that there is no evidence in the present case that the Respondent is commonly known by the Disputed Domain Name, which could indicate his rights or legitimate interests.



In addition, the Panel notes that the Disputed Domain Name is confusingly similar to the Complainant's previously registered UNIVERSAL Trademark. The Panel considers that the nature of the Disputed Domain Name carries a risk of being perceived as potentially affiliated with the Complainant that also supported by the fact that since 1964 the Complainant has used the UNIVERSAL Trademark specifically in connection with theme parks.

Considering the above, the Panel concludes that the Complainant meets the requirements of the second element of the .UA Policy.

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

Paragraph 4(b) of the .UA Policy sets out a non-exhaustive list of circumstances that indicate bad faith conduct on the part of the respondent, namely:

(i) circumstances indicating that the respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the disputed domain name; or

(ii) the respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the disputed domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Panel finds that the Complainant's first registration for the UNIVERSAL Trademark predates the registration of the Disputed Domain Name by more than 80 years. The UNIVERSAL Trademark has been in commercial use more than 100 years. Previous .UA panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see *Google LLC v. Александр Дмитриевич Бутенко*, WIPO Case [DUA2020-0009](#)). The Panel is of opinion that it is clear that the Respondent, having registered and used the Disputed Domain Name, which is confusingly similar to the Complainant's well-known UNIVERSAL Trademark, primarily intended to disrupt the Complainant's business and reputation.

In the Panel's opinion, the fact that the Respondent was aware of the Complainant and the Complainant's UNIVERSAL Trademark at the time of registration of the Disputed Domain Name and filing of the trademark applications is beyond doubt, given that the trademark applications and the Disputed Domain Name are confusingly similar to the Complainant's UNIVERSAL Trademark. Moreover, addition of the descriptive term "park" to the Complainant's UNIVERSAL Trademark in the Disputed Domain Name also evidences well awareness of the Respondent about the Complainant and its business, as the Complainant has involved in the theme park business since 1964, i.e., 60 years prior to the Disputed Domain Name was registered.

Furthermore, the Respondent's knowledge of the Complainant's UNIVERSAL Trademark is also supported by the use of the Disputed Domain Name which previously resolved to the commercial website apparently offering the services for creation of theme parks, as well as manufacture of decorations and installations for the theme parks which are competitive with the Complainant's services. Also, certain copyrighted images belonging to the Complainant were posted on the Respondent's website. At the same time the website

under the Disputed Domain Name contained no information about the Respondent's relation to the Complainant (or lack thereof). As a result, the Panel finds that the Respondent had the Complainant's UNIVERSAL Trademark in mind and intentionally targeted the Complainant when it registered the Disputed Domain Name. Accordingly, the Panel concludes that the Respondent registered and used the Disputed Domain Name in bad faith to create a likelihood of confusion with the Complainant's UNIVERSAL Trademark. Accessing the Disputed Domain Name, the Internet users would most likely consider that it is related to or associated with the Complainant and the Complainant's business.

Therefore, the Panel concludes that the Respondent's initial use of the Disputed Domain Name to offer the competitive services indicates that at the time of registration of the Disputed Domain Name the Respondent clearly and explicitly knew and targeted the Complainant's previously registered and well-known UNIVERSAL Trademark, which is indicative of bad faith.

With regards to the current inactive status of the Disputed Domain Name, the change in its use further supports the Panel's conclusion that the Respondent lacks any credible explanation for the good faith of the registration and prior use of the Disputed Domain Name. Taking into account the totality of the circumstances, the Panel finds that the current passive ownership of the Disputed Domain Name does not preclude the establishment of bad faith. See section 3.3 of the [WIPO Overview 3.0](#).

The Panel finds that, in all the circumstances, the Respondent's passive use of the Disputed Domain Name, together with the factors outlined above, are sufficient to amount to bad faith registration and use.

For the foregoing reasons, the Panel concludes that the Disputed Domain Name has been registered in bad faith. Accordingly, the Complainant has fulfilled the third condition of paragraph 4(a) of the .UA Policy.

## **8. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the .UA Policy and 15 of the .UA Rules, the Panel orders that the Disputed Domain Name <universalpark.com.ua> be transferred to the Complainant.

/Mariya Koval/

**Mariia Koval**

Sole Panelist

Date: August 9, 2024