

## **ADMINISTRATIVE PANEL DECISION**

Formula One Licensing B.V. v. “- -”

Case No. D2023-3529

### **1. The Parties**

The Complainant is Formula One Licensing B.V., Netherlands (Kingdom of the), represented by Sheridans Solicitors, United Kingdom.

The Respondent is “- -”, Belgium.

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

The disputed domain name <f1-experiences.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 21, 2023. On August 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 23, 2023, 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on August 28, 2023 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 August 29, 2023.

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 August 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 22, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on September 26, 2023. 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 belongs to a group of companies that organizes Formula One Championship races, as well as other motorsports events. As such, the Complainant is the owner of the trademark F1 relating to Formula One Championship races. The races itself are being held roughly twenty three times a year attracting an annual audience of 4.2 million people on average. The races are also broadcasted on the television accounting for another 425 to 600 million viewers in 189 different countries worldwide.

The Complainant is the owner of many trademark registrations worldwide comprising of the word element F1, including, but not limited to, the Benelux trademark registration for F1 (word mark), with registration no. 1008618, and with a registration date of January 30, 2017, for goods and services in classes 4, 9, 12, 14, 16, 18, 25, 28, 32, 33, 35, 36, 38, 39, and 41, and the European Union Trade Mark registration for F1 (word mark), with registration no. 009250721 and with a registration date of October 28, 2012, for goods and services in classes 9, 14, 16, 18, 25, 39, 41, 42, and 43.

The disputed domain name was registered on May 30, 2023. The disputed domain name is currently not in use. However, at the time of filing the Complaint, the disputed name resolved to a website featuring the F1 mark, offering various different tickets for the F1 Dutch Grand Prix: day tickets, weekend tickets and Paddock Club tickets.

The website previously associated to the disputed domain name is similar to the website “www.f1experiences.com”, the official ticketing site for the Complainant. For selling tickets the F1 EXPERIENCES website is an approved licensee of the F1 trademarks and the official ticketing site for the Complainant.

The Complainant stated that it is unknown whether such goods are legitimately available for purchase by consumers. In addition, the Complaint states that in a previous UDRP similar case, several complaints were received by the Complainant from consumers who purchased tickets and did not receive such tickets.

#### **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 is confusingly similar to its trademarks;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- the Respondent has registered and is using the disputed domain name in bad faith.

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

The Respondent did not reply to the Complainant's contentions.

## 6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

- (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 respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### 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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the F1 mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the 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.

While the addition of other term "-experiences" 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.

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 the 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 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.

As stated above, the website previously associated to the disputed domain name displayed the F1 mark, and offered various different tickets for the F1 Dutch Grand Prix: day tickets, weekend tickets and Paddock Club tickets. The Complaint states that no goods available at the disputed domain name are authorized by the Complainant.

While the genuine nature of the goods allegedly offered is unclear, it is not necessary for the Panel to reach such conclusion given the clear attempt to unduly impersonate the Complainant, and also in light of the lack of disclaiming information on the website previously associated with the disputed domain name, which only aggravates the inherently misleading nature. Further to section 2.8 of the [WIPO Overview 3.0](#), the Panel finds that the use of the disputed domain name does not fall within the caveat of fair use.

Moreover, where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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

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

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 F1 trademarks are distinctive and well-known internationally (*Formula One Licensing BV v. Chen Ming Kun*, WIPO Case No. [D2023-0918](#) and *Formula One Licensing BV v. Ano Niem*, WIPO Case No. [D2023-2237](#)).
- the Complainant has been the registered proprietor of the F1 trademarks for many years prior to the registration of the disputed domain name.
- the addition of the term “experiences” to the F1 trademark and the content included in the disputed domain name means that the Respondent was aware of the official ticketing site for the Complainant.
- the disputed domain name purportedly offered various different tickets for the F1 Dutch Grand Prix: day tickets, weekend tickets and Paddock Club tickets.
- the website previously associated with the disputed domain name is similar in content to the website “www.f1experiences.com”, the official ticketing site used by the Complainant. Based on that fact, the Complainant states that this case presents several similarities to the *Formula One Licensing BV v. Ano Niem*, WIPO Case No. [D2023-2237](#), and it may be even the same registrant. The Respondent has not denied these assertions because of its default.

The Panel considers that the record of this case reflects that the Respondent has registered the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

A finding of registration and use in bad faith is also supported by the fact that it is beyond reasonable doubt that the Respondent used a false “name” (“-”) and an incomplete address when registering the disputed domain name.

Consequently, the Panel concludes that the disputed domain name was registered, and is being used in bad faith, and the requirements of paragraph 4(a)(iii) of the Policy are met.

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

## **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 <f1-experiences.com> be transferred to the Complainant.

*/Pablo A. Palazzi/*

**Pablo A. Palazzi**

Sole Panelist

Date: October 10, 2023