

ADMINISTRATIVE PANEL DECISION

Patronato de la Alhambra y el Generalife v. Domain Admin, Indefinite Ltd
Case No. D2024-0182

1. The Parties

The Complainant is Patronato de la Alhambra y el Generalife, Spain, represented by Iberpatent S.L., Spain.

The Respondent is Domain Admin, Indefinite Ltd, Malta, represented by Muscovitch Law P.C., Canada.

2. The Domain Name and Registrar

The disputed domain name <alhambra.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 January 17, 2024. On January 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 17, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 18, 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 January 18, 2024.

On January 18, 2024, the Center informed the parties in English and Spanish, that the language of the registration agreement for the disputed domain name is English. On January 18, 2024, the Complainant confirmed its request that Spanish be the language of the proceeding and also submitted the Complaint translated into English. The Respondent objected to the Complainant’s request.

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 January 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 15, 2024. The Response was filed with the Center on February 14, 2024.

The Center appointed Andrew D. S. Lothian, Edoardo Fano, and Jeffrey Neuman as panelists in this matter on March 15, 2024. The Panel finds that it was properly constituted. Each member of 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 Patronato de la Alhambra y Generalife, an autonomous administrative body based in Andalusia, Spain whose creation was authorized by the Junta de Andalucía in 1985. The Complainant is entrusted with the protection, administration and conservation of the Monumental Complex of the Alhambra and the Generalife, which was declared a World Heritage site by UNESCO in 1984.

The Complainant maintains a portfolio of registered trademarks consisting of, or containing, the ALHAMBRA mark. For example, the Complainant is the owner of European Union Registered Trademark Number 7226897 for a figurative mark consisting of a graphical representation of the word ALHAMBRA in a serif typeface, registered on October 7, 2011, in Classes 1, 4, 5, 6, 7, 8, 10, 11, 17, 21, 22, 23, 26, 28, 40, and 41.

The disputed domain name was registered on August 20, 2000, but was acquired by the Respondent more recently. According to an undated screenshot produced by the Complainant, the website associated with the disputed domain name displayed a parking page of the Registrar containing a button marked “Obtén este dominio” (“Get this domain name”). This led to a page where the disputed domain name was offered for sale at a six figure sum. The Respondent’s position is that the said parking page predates its ownership of the disputed domain name. While the Panel was preparing this Decision, the disputed domain name pointed to the website of the Respondent’s business, which contains a message on the homepage extolling the benefit of superior branding.¹

The Respondent is a Maltese company which describes itself as a professional domain name investment firm. The Respondent acquired the disputed domain name from the previous registrant (which appears to be the Registrar or a division of the Registrar) on or about December 15, 2023. According to a redacted version of an amendment to a Membership Agreement dated December 15, 2023, produced by the Respondent, the disputed domain name was acquired along with some 197 other domain names, all of which appear to be in the “.com” Top-Level Domain (“TLD”), including for example, <alejandro.com>, <fotos.com>, <burritos.com>, <bogota.com>, <universidad.com>, and a variety of three-character domain names. The Panel has not identified any obvious trademarks contained in the domain names acquired. The acquisition date of the disputed domain name by the Respondent, and alleged change of website content, is supported by a hosting history, also produced by the Respondent, which shows a change in the corresponding IP address as of December 28, 2023.

According to the evidence before the Panel, the term “Alhambra” can refer to the monument with which the Complainant is entrusted. It is also found in numerous business and product names, and in multiple trademarks (with or without other terms), none of which are directly associated with the Complainant or its trademarks. According to a Wikipedia “disambiguation” page for the term, these include, for example, a jewelry motif, a perfume manufacturer, a clothing boutique, a car model, a line of classical guitars, a brand of beer, a textile brand, and a publishing house. The term can refer to six geographic locations in the United States of America (“United States”), including a city in Los Angeles County. Said “disambiguation” page also notes that the term can refer to multiple theaters and entertainment complexes, many of which are still in

¹As the Respondent had expressly noted in the Response that the content of the website associated with the disputed domain name had been changed after its acquisition of the disputed domain name, the Panel considered it appropriate to visit said website during its deliberations. As noted below, the Panel also consulted online dictionaries for the term “Alhambra”. On the topic of a Panel under the Policy conducting independent research, see section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)

existence, in Denmark, France, Israel, United Kingdom, and United States. Some of these venues have been in operation for over a century.

As far as the Panel is aware, the term “Alhambra” most probably originates with the said monument, which dates from the thirteenth century. The monument is typically the first and sometimes the only item in a corresponding dictionary definition. The derivation of its name is from the Arabic “al hamra” (in transliteration), meaning “the red one”, reflecting the color of the monument’s walls. As far as the Panel can tell, many of the other, later uses of the term appear to have been inspired by the monument as a byword for sophistication, opulence, or grandeur.

The Complainant has brought five previous cases under the Policy, in each of which its complaint was denied (see *Patronato de la Alhambra y el Generalife v. Alhambra Valparaíso Ocio y Cultura, S. L.*, WIPO Case No. [D2015-0329](#), *Patronato de la Alhambra y el Generalife v. Asociación Pedagógica y Cultural Alhambra*, WIPO Case No. [D2015-0345](#), *Patronato de la Alhambra y el Generalife v. José Manuel Reche, Tour Alhambra Viajes / Sinisa Novakovic, City Tour Alhambra Viajes / Encarni Pérez, Movviendo Tourism Group, S.L.*, WIPO Case No. [D2023-4022](#), *Patronato de la Alhambra y Generalife v. AREA IT SCA, AREA25 IT SCA*, WIPO Case No. [D2023-4124](#), and *Patronato de la Alhambra y El Generalife v. Ignacio Lopez-Moratalla Lopez, Alhambra Valparaiso Ocio y Cultura S.L. / Tickets Granada, Tickets Granada S.L. / Santiago Benavides Gomez / Jose Antonio Puerto Ortuno, Alhambra Valparaiso Ocio y Cultura S.L. / Granada for you SLU*, WIPO Case No. [D2023-4301](#)).

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 asserts that there is an obvious identity between the disputed domain name and the Complainant’s ALHAMBRA trademarks. The Complainant notes that the disputed domain name was registered after the date that the Complainant was created, after the date of declaration of World Heritage Site status by UNESCO, and after the date of some of the Complainant’s trademarks. The Complainant asserts that it has been allocated a budget of EUR 120,000 for publicity. The Complainant adds that it has no relationship with the Respondent, and that the Respondent is preventing the Complainant from using its trademark as a “.com” domain name, which is the most commercially relevant suffix. The Complainant notes that the disputed domain name has been offered for sale in a six figure sum, which it describes as an exorbitant price, and that it has also displayed pay-per-click (“PPC”) links. The Complainant contends that the Respondent has no interest other than to make an unfair profit at the expense of the reputation of the Complainant’s mark.

The Complainant asserts that there are circumstances present corresponding to paragraph 4(b) of the Policy whereby the disputed domain name should be considered to have been registered and used in bad faith, adding that the Respondent knew of the existence of the Complainant’s reputation and renown when it registered the disputed domain name. The Complainant submits that the Respondent seeks to prevent or hinder the Complainant’s commercial activity, and that its behavior causes a risk of consumer confusion, an impairment to and infringement of the Complainant’s marks, and an infringement of the principles of good faith.

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. Notably, the Respondent states that it is a professional domain name investment firm which purchased the disputed domain name within a portfolio of common, descriptive,

and generic terms that are of general appeal and not due to any value derived from the Complainant's trademarks, noting that the Complainant would or should have been aware of this. The Respondent asserts that it avoids investing in domain names that are distinctive brands, and that it was unaware of the Complainant when it acquired the disputed domain name, adding that it conducted Google searches at or about the time of purchase and concluded that the disputed domain name consisted of a commonly used term over which no one had any monopoly. The Respondent asserts that the Complainant's screenshot of the website associated with the disputed domain name belongs to the Registrar as prior registrant of the disputed domain name, adding that the Respondent never publicly advertised the disputed domain name for the sale figure that the Complainant identified, or for any price, and that it never solicited the Complainant. The Respondent's position is that, should it offer the disputed domain name for sale, this would be unobjectionable.

The Respondent notes that the Alhambra complex precedes the Complainant's creation in 1985 by nearly 800 years, and that the complex's name and reputation were known long prior to such creation, adding that there are thousands of third party users of the term, such that it would form an attractive brand to a new entrant to the marketplace. The Respondent contends that this gave rise to its primary interest rather than any reference to the Alhambra complex. The Respondent criticizes the Complainant's list of trademarks, contending that (1) the Complainant's submission that it has 68 marks consisting of or containing the verbal element "Alhambra" is an exaggeration and misleading, noting that while some of said marks do not contain the term, it is present in others with additional distinctive words; (2) while the Complainant claims it has a trademark in the United States, it only has an application which was refused on October 17, 2023 because it was deemed confusing to a pre-existing trademark registration for ALHAMBRA; (3) the Complainant's United Kingdom and European Union marks are figurative rather than word marks, submitting that this does not confer exclusive rights in the words but is limited to the overall composition of the mark; and (4) the term "Alhambra" is a popular word for a trademark, with the WIPO Global Brand Database showing 507 active marks containing the term, nearly all of which are unconnected with the Complainant.

The Respondent concedes that the Complainant has a trademark that is identical to the disputed domain name for Policy purposes but contests the submission that the Respondent does not have rights or legitimate interests in the disputed domain name, adding that the Complainant's rights do not prevent a domain name dealer from using the disputed domain name for nominative fair use, or for PPC advertising relating to its meaning, or as an investment corresponding to a common descriptive word and historical landmark that is likewise suggestive and used by countless parties for all manner of goods or services. The Respondent asserts that the Complainant has provided no evidence of its, or its trademark's renown but has conflated the monument's renown with itself and its marks. The Respondent notes that the Complainant has not evidenced how its alleged advertising budget was spent, submitting that there is no basis to conclude that the Respondent must have been aware of the Complainant or its marks.

The Respondent asserts that innumerable parties coexist and share the word "Alhambra", adding that many of them are better known than the Complainant, and that the Respondent did not target the Complainant but recognized value in the disputed domain name independently, including under reference to the monument as a secondary purpose, but not to the Complainant or its marks, citing *Patronato de la Alhambra y El Generalife v. Ignacio Lopez-Moratalla Lopez, Alhambra Valparaiso Ocio y Cultura S.L. / Tickets Granada, Tickets Granada S.L. / Santiago Benavides Gomez / Jose Antonio Puerto Ortuno, Alhambra Valparaiso Ocio y Cultura S.L. / Granada for you SLU*, WIPO Case No. [D2023-4301](#). The Respondent concludes that as a legitimate secondary market domain name dealer it had every right to offer the disputed domain name for sale to the general public, distinguishing cases relating to the Eiffel Tower, such as *Société d'Exploitation de la Tour Eiffel (SETE) contre Les Editions La Plume de Louise/ Monsieur Gosselin Frank*,

WIPO Case no. [D2011-0101](#) relied upon by the Complainant, principally because the term "Eiffel Tower" exclusively refers to the specific tower in Paris, France, while the term "Alhambra" is widely used in other respects.

The Respondent requests that the Panel enter a finding for Reverse Domain Name Hijacking against the Complainant on the basis that it overreached and misrepresented its rights, ignored the fact that the

Respondent was a domain name dealer and that “Alhambra” is a word shared by numerous companies, and failed to disclose or address the five previous cases that it has lost, contending that the Complainant should have known that it could not succeed in this case.

6. Discussion and Findings

A. Preliminary Matter: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is English. 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 Spanish. The Complainant requests that the language of the proceeding be Spanish for several reasons, notably that the Complainant is an entity incorporated under Spanish law and has its registered office in Spain, that the Complainant’s various websites are in Spanish, that the content of the website at the disputed domain name is in Spanish, and that the content linked to by a button at the top of the website at the disputed domain name marked “Obtén este dominio” is in Spanish.

The Respondent requested that the language of the proceeding be English. The Respondent asserts that there is no agreement of the Parties to have the proceeding in any language other than English (the language of the Registration Agreement), that the Respondent and its counsel have no facility in Spanish, and that the website associated with the disputed domain name mentioned by the Complainant was from before the Respondent purchased the disputed domain name on December 15, 2023. The Respondent adds that the website referenced by the Complainant appears to have been automatically translated by the Registrar according to the geolocation of the visitor to the website, the Complainant being in Spain. The Respondent contends that the language of the Complainant’s website and the Complainant’s jurisdiction are immaterial and do not constitute special circumstances to depart from the general rule in paragraph 11(a) of the Rules, noting that the members of the Panel are unlikely to all comprehend Spanish. The Respondent observes that although the Complaint has been submitted in English at the Center’s request, it has been supplied in a machine translated form, while the Complainant’s exhibits have not been translated into English. The Respondent states that it is unable to review these documents meaningfully unless they are translated.

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 (see [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. The Panel identifies no special circumstances from the Complainant’s submission that would reasonably indicate that any departure from the language of the Registration Agreement should be made.

The Panel consists of an English/Spanish speaker and two English speakers who do not speak Spanish. The Complaint, while apparently machine-translated, was supplied by the Complainant upon the Center’s request that it file a version in English. In light of its decision above, the Panel considers it appropriate to work from the English version of the Complaint wherever possible, noting that the Respondent has sought to answer this version in the Response, which is also in English. The Panel’s Spanish speaker (Panelist Fano) has also reviewed the Complaint and the Complainant’s exhibits in the Spanish language. Panelist Fano noted certain minor and non-material discrepancies between the Spanish and English language version of the Complaint. The Panel as a whole noted that these particular areas of discrepancy did not appear to make sense in the English version.

While the English language version of the Complaint must take precedence over the Spanish version for the purposes of the proceeding, the Panel (via Panelist Fano) has had limited regard to the Spanish language version in order to assist the Panel in its understanding of what was intended in the areas of discrepancy. The non-Spanish-speaking members of the Panel have reviewed the Complainant's exhibits by use of machine translation as necessary, consulting the Spanish-speaking member of the Panel if required. The Panel notes that the Complainant's exhibits are largely of a formal nature, namely an entry in the Official Gazette of the Junta de Andalucía, a copy of the Complainant's budget, a Whois search for the disputed domain name, a copy of the Policy, a list of the Complainant's registered trademarks, and certain official resolutions issued by the Oficina Española de Patentes y Marcas (Spanish Patent and Trademark Office).

The Panel as a whole considers that it has obtained a sufficient understanding of the Complainant's exhibits and determines that nothing material turns on them as far as the merits are concerned. Nor does anything turn on the discrepancies between the versions of the Complaint. Consequently, the Panel has decided not to order a formal translation of the exhibits and/or a better translation of the Complaint as this would lead to further delay, and unnecessary expense to both of the Parties. It is evident from the Response that the Respondent has been able to understand the Complaint, together with the most pertinent exhibits, being the list of the Complainant's marks, registration information relative to certain of these, and the screenshot of the former website for the disputed domain name. Given this, and given the outcome of the proceeding as discussed below, the Panel considers that the Respondent has not been prejudiced by the fact that it has not been able to view the exhibits in English.

B. 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 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.

To the extent that the Complainant's mark is figurative in nature, the graphical element of the mark (being a stylized rendering in a serif typeface) is readily severable from the textual element for comparison purposes. [WIPO Overview 3.0](#), section 1.10

In addition to its above analysis, the Panel notes that the Respondent concedes that there is identity between the disputed domain name and the Complainant's trademark for Policy purposes.

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

C. Rights or Legitimate Interests

The requirements of paragraph 4(a) of the Policy are conjunctive. A consequence of this is that failure on the part of a complainant to demonstrate one element of the Policy will result in failure of the complaint in its entirety. Accordingly, in light of the Panel's findings in connection with the third element under the Policy, no good purpose would be served by addressing the issue of the Respondent's rights or legitimate interests in the disputed domain name.

D. 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. The Complainant's case predominantly focuses on an alleged primary intention on the Respondent's part to acquire the disputed domain name in order to sell it to the Complainant for valuable consideration in excess of its documented out-of-pocket costs, conform to paragraph 4(b)(i) of the Policy, and/or to attract Internet users to the Respondent's website by creating a likelihood of confusion between the Complainant's mark and the disputed domain name, conform to paragraph 4(b)(iv) of the Policy.

As a starting point, the Panel observes that a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant (see, for example, *Instagram, LLC v. Domains By Proxy, LLC / Masud Rana, D-limit Ltd*, WIPO Case No. [D2022-0250](#)). It follows that a complainant must show that the domain name concerned was registered in the knowledge of the complainant and/or its rights and with intent to target these. The Panel is of the opinion that the Complaint fails in both of these respects.

The notoriety of the UNESCO-listed monument that the Complainant is tasked with protecting is not in doubt, and the Panel is content to draw the reasonable inference that the Respondent was aware of said monument on the balance of probabilities when it acquired the disputed domain name. But that is not the nub of the issue in the present case. Awareness of the monument does not necessarily amount to awareness of the Complainant or of its trademark. Fame of the monument does not necessarily amount to fame of the Complainant's trademark. It is true that being tasked with the preservation of a world-famous monument (including by way of legislative provisions) might give rise to a certain notoriety on the Complainant's part, particularly in the locality concerned, but there is insufficient evidence of the wider existence of, extent, or reach of any such notoriety on the present record, and there are no facts or circumstances before the Panel from which these matters might reasonably be inferred. For example, the Complainant could hardly claim worldwide notoriety for itself and its trademarks on the strength of an alleged marketing budget of EUR 120,000, particularly where it fails to specify how and in what manner such budget was spent. Furthermore, there is nothing before the Panel that suggests that the Complainant would be entitled to conflate such notoriety and goodwill as it may have built up in its trademark since being tasked with protection of the monument in 1985 (which goodwill is not sufficiently evidenced here) with the notoriety of the monument itself. For its part, the Respondent's denial of awareness of the Complainant's mark is plausible based upon the present record, as is its submission (supported by a sworn statement from a member of its staff) that it took reasonable steps by way of a Google search to identify whether the term "Alhambra" denoted a particular rights holder. It follows that the Complainant has not proved that the Respondent acquired the disputed domain name in the knowledge of the Complainant or its rights.

It is not the case that the term "Alhambra" could only sensibly refer to the Complainant, from which knowledge and also targeting might reasonably be inferred. The record in the present case shows that there are numerous other meanings and usages of the term such that the Respondent's case that it acquired the disputed domain name as a readily investable product, which it believed did not target the rights of anyone in particular, is reasonably plausible. The Panel finds that "Alhambra" means many things to many people, and it could just as easily be used to refer to a new product, new business, or any entity which wished to call to mind a character of sophistication, opulence or grandeur. Indeed, prior to reviewing the evidence in this case, one member of the Panel (Panelist Lothian) was capable of describing the term's usage as one of several theatrical venues in the United Kingdom dating from the early twentieth century in far greater detail than he could have described the monument from which it probably derived its name, despite being aware of the latter to a more limited extent. It is true that many, if not most, of the usages of this term will have their origin with the monument, which is both ancient and world-famous, but the Panel accepts the Respondent's case that neither this nor the Complainant's interest in the monument necessarily mean that the Complainant has exclusive rights in the name "Alhambra" and/or that the Respondent's acquisition of the disputed domain name as an investment proposition necessarily targeted the Complainant and therefore was in bad faith within the meaning of the Policy. Indeed, it appears to be exactly the lack of such exclusive rights coupled with the existence of prior rights vesting in a third party that caused the Complainant's United States trademark application to be rejected.

The Panel notes in passing that it accepts the Respondent's evidence that the Complainant's screenshot of the website associated with the disputed domain name predates the Respondent's acquisition thereof. Nevertheless, as a dictionary term that references an ancient monument among many other uses, the Panel sees no reason why the Respondent would be held to have acquired and used the disputed domain name in bad faith if it, too, associated it with a website that contained PPC advertisements related to that dictionary meaning and/or offered it for general sale. Doing so does not target the Complainant's rights unfairly in contravention of the Policy.

There have been previous cases under the Policy related to landmarks, edifices, and monuments where a complainant responsible for the relevant protection or preservation has prevailed, such as the Eiffel Tower cases cited by the Complainant or indeed *Excmo. Cabildo Catedral de Córdoba v. Ignacio Lopez-Moratalla Lopez, Alhambra Valparaiso Ocio y Cultura S.L.*, WIPO Case No. [D2018-0739](#) concerning the Mezquita-Catedral de Córdoba. However, the principal distinction that the Panel identifies in such cases when compared to the present case is that the reference to the monuments in those previous cases, when placed in context, could only realistically be taken to refer to the operators concerned. In other words, there was no evidence before the panels in those cases of the multitudes of other uses and meanings for the terms concerned that are before the Panel here.

The Panel notes in any event that the alleged conflation of ancient or culturally significant and/or protected monuments with those responsible for them and their trademarks is a relatively complex question. The Policy was enacted to address obvious cases of cybersquatting. In this context, the Panel notes that its Decision does not constitute a determination as to whether the use of the disputed domain name would or would not infringe any trademark or violate national law in the territory where the Complainant is based. Such questions are beyond the scope of the Policy.

The Panel finds the third element of the Policy has not been established.

E. Reverse Domain Name Hijacking

Paragraph 15(e) of the Policy provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking ("RDNH") or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

The Panel considers that, while potentially ill-advised, this case was not brought in bad faith and/or bound to fail at the outset. The Complainant is the legal custodian for its eponymous world-famous monument and is the owner of related trademarks, while the disputed domain name is identical to the name of such monument and to certain of the Complainant's trademarks. The disputed domain name had been acquired by a domain name investor. The Panel considers that the Complainant was entitled to put the Respondent to the proof on the question of knowledge and intent to target. While the Panel has not found it so, it is not wholly implausible that the disputed domain name could have been registered with a view to it being sold to the Complainant specifically at a substantial profit. That is largely an evidential question and the Complainant failed to provide adequate evidence of the notoriety of its trademark when weighed against the evidence of other uses of the term "Alhambra". Such failure does not necessarily equate to bad faith. The Complainant was entitled to attempt to argue that its mark is famous, even though the Panel ultimately drew a distinction between the fame of the monument and the fame of the Complainant and its mark. The failure of the Complaint in that respect may also be considered a consequence of a failure to provide sufficient evidence.

The Panel does however wish to record its concerns regarding the fact that the Complainant appears to have overreached itself regarding the statement of its rights, and that the Complainant did not reinvestigate the use of the disputed domain name after the Respondent's identity was revealed by the Registrar. There was no date on the screenshot produced by the Complainant which depicted the previous registrant's use of the disputed domain name, and had it not been for the details in the Response, there was no way for the Panel

to know that said screenshot was not contemporaneous to the filing of the Complaint. Accordingly, if there had been no Response in this case, the Panel might have been inclined to rely on the screenshot. Its submission without a date might therefore have misled the Panel. While this renders the question of RDNH as something of a closer call, the Panel has determined that the Complainant's failure here was rather an omission than an active and deliberate attempt to mislead the Panel.

In making this determination, the Panel has not overlooked the five previous cases brought by the Complainant in which its complaint was denied. The Complainant did not address these, and the Respondent cites them in support of its request for a finding of RDNH. However, on close inspection, the Panel notes that these cases had a different factual matrix from that before the Panel here. Notably, the respondent in those cases was not a domain name investor but rather a ticket seller or operator of guided tours concerning the monument. In some of those cases, the registration of the domain name(s) concerned also predated the earliest of the Complainant's marks. That is not the case here, insofar as the disputed domain name, while it has an earlier registration date, was acquired by the Respondent well after the Complainant registered its trademarks.

In all of these circumstances, the Panel declines to enter a finding of RDNH.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Andrew D. S. Lothian/

Andrew D. S. Lothian
Presiding Panelist

/Edoardo Fano/

Edoardo Fano
Panelist

/Jeffrey Neuman /

Jeffrey Neuman
Panelist

Date: March 29, 2024