Decision for dispute CAC-UDRP-106862

Case number	CAC-UDRP-106862
Time of filing	2024-09-13 09:26:02
Domain names	boxofficerise.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BOX OFFICE MEDIA

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	RELTIO, INC .

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is a north American company for media publishing services, and technologies available to the global film industry, including for cinemas. The Complainant belongs to WEBEDIA a French media-tech and digital entertainment company, founded in 2007.

The Complainant owns the following trademarks:

- USPTO trademark for BOXOFFICE (word mark), Reg. No. 77713352, in International Class ("IC") 35 and 41, registered on May 4, 2010, and in force until November 4, 2030.
- USPTO trademark for BOXOFFICE (word mark), Reg. No. 74536175, in IC 16, registered on May 30, 1995, and in force until December 1, 2025.

FACTUAL BACKGROUND

The Complainant is a north American company for media publishing services, and technologies available to the global film industry, including for cinemas. The Complainant belongs to WEBEDIA a French media-tech and digital entertainment company, founded in 2007.

WEBEDIA has presence in more than 15 countries, counts with more than 250 million viewers worldwide by month, and has more than 2,300 employees.

In addition to the BOXOFFICE trademarks, the Complainant also owns the domain name <boxoffice.com>, registered since February 19, 1997.

The disputed domain name <boxofficerise.com> was registered on September 5, 2024, and resolved to a website which sought to impersonate the Complainant. By the time of this Decision, the disputed domain name resolved to an inactive website with no content at all.

PARTIES CONTENTIONS

Complainant Contentions:

- Regarding the first element of the Policy, in summary, the Complainant contends that the disputed domain name <boxofficerise.com> is confusingly similar to the Trademark BOXOFFICE, which it is recognized in the disputed domain name.
- Regarding the second element of the Policy, in summary, the Complainant contends that the Respondent is not commonly known by the disputed domain name; that the Respondent is not affiliated with nor authorized in any way; that Complainant does not carry out any activity for, nor has any business with the Respondent, that neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name by the Complainant; that Respondent's use of the disputed domain name to impersonate the Complainant (including the use of the trademark BOXOFFICE and its logo), cannot be considered neither a bona fide offering of goods or services nor a legitimate non-commercial or fair use of the disputed domain name.

- Regarding the third element of the Policy, in summary, the Complainant contends that the disputed domain name was registered and is being used in bad faith, given the actual knowledge that Respondent has over the Complainant, where the trademark BOXOFFICE and logo was reproduced on the website potentially for fraudulent purposes, seeking to impersonate the Complainant, falling into paragraph 4.b.(iv) of the Policy.

Response

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

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to BOXOFFICE trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

In accordance with Paragraph 4(a) of the Policy, the onus is on the Complainant to prove:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(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.

The Panel will consider each of these requirements in turn.

1. **Identical or Confusingly Similar**

Having reviewed the available evidence, the Panel finds that the entirety of the Complainant's trademark BOXOFFICE is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark for the purposes of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.7.

Although the addition of other term here, "rise" 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 Complainant's BOXOFFICE trademark for the purposes of the Policy. See WIPO Overview 3.0, section 1.8.

In relation to the generic Top-Level Domain ".com", it may be disregard. See WIPO Overview 3.0., section 1.11.1.

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

2. **Rights or Legitimate Interests**

According to the evidence submitted by the Complainant and considering the absence of any communication or administrative Response by the Respondent, this Panel determines that the Complainant has established its prima facie case in relation to the second element of the Policy. To this Panel, it is very clear that:

(1) the use given by the Respondent to the disputed domain name, meaning to impersonate the Complainant, doesn't not constitute a bona fide offering of goods or services and/or a legitimate noncommercial or fair use of the domain name, as set out in paragraph 4.c.(i) and (iii) of the Policy, in the contrary, it is perceived as illegal activity. See WIPO Overview 3.0, section 2.13.1.

(2) the Respondent is not associated or affiliated to the Complainant.

(3) the Complainant has not granted any authorization to the Respondent to use the BOXOFFICE Trademark, whether as an official distributor or a license to offer any of its products, services, or any rights to apply for the registration of the disputed domain name.

(4) there is no evidence that the Respondent has become commonly known by the disputed domain name.

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

3. **Registered and Used in Bad Faith**

Based on the submitted evidence, the Panel finds that given the Complainant's digital activity, timing and nature of the disputed domain name, website's content, the Respondent knew about the Complainant business, reputation, and trademark value, at the time of its registration, therefore, the disputed domain name was registered with the Complainant's intangible assets in mind, meaning in bad faith. In relation to the use, given the Respondent's intentions to impersonate the Complainant, to this Panel such evidence (in addition to its current passive holding), it is sufficient to determine that the disputed domain name is being used in bad faith under the Policy. See WIPO Overview 3.0, sections 3.2.1, 3.2.2 and 3.1.4.

The Panel finds that the Complainant has established the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **boxofficerise.com**: Transferred

PANELLISTS

Name	**María Alejandra López García**

DATE OF PANEL DECISION 2024-10-11

Publish the Decision