

ADMINISTRATIVE PANEL DECISION

Macmillan Publishers International Limited v. Asshar Rawoof Smart Startup Solutions LLC and Salman Saad
Case No. D2023-4563

1. The Parties

The Complainant is Macmillan Publishers International Limited, United Kingdom, represented by Stobbs IP Limited, United Kingdom.

The Respondents are Asshar Rawoof Smart Startup Solutions LLC and Salman Saad, Pakistan.

2. The Domain Name and Registrars

The disputed domain name <macmillanebookpublishers.com> is registered with NameCheap, Inc. (“NameCheap”) and the disputed domain name <macmillanbookpublishers.org> is registered with GoDaddy, Inc. (“GoDaddy” and together with NameCheap, the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 2, 2023. On November 3, 2023, the Center transmitted by email to NameCheap a request for registrar verification in connection with the disputed domain name <macmillanebookpublishers.com>. On November 3, 2023, NameCheap transmitted by email to the Center its verification response disclosing registrant and contact information for this 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 November 6, 2023, providing the registrant and contact information disclosed by NameCheap, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 7, 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 November 13, 2023. On November 22, 2023, the Complainant sent an email to the Center requesting the addition of the disputed domain name <macmillanbookpublishers.org> to the current proceeding.

In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 11, 2023.

The Center appointed Evan D. Brown as the sole panelist in this matter on December 13, 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.

On December 18, 2023, upon request of the Panel, the Center transmitted by email to GoDaddy a request for registrar verification in connection with the disputed domain name <macmillanbookpublishers.org>. On that same date, GoDaddy transmitted by email to the Center its verification response disclosing registrant and contact information for this disputed domain name.

On December 21, 2023, the Panel issued a Procedural Order wherein, among other things, the Complainant was invited to amend its Complaint to provide arguments by December 26, 2023, as to why the two disputed domain names should be consolidated. The Procedural Order also afforded the registrant of the disputed domain name <macmillanbookpublishers.org> until December 31, 2023, to comment on the Complainant's submissions and/or file a Response as it may deem appropriate.

The Complainant amended the Complaint on December 22, 2023, as invited in the Procedural Order to provide consolidation arguments and evidence. Neither Respondent submitted any communications to the Center.

4. Factual Background

The Complainant is in the publishing business, providing various products and services under the word mark MACMILLAN. The Complainant enjoys the benefits of registration of various forms of that mark in jurisdictions around the world (e.g., United Kingdom Registration No. UK00001102865, registered on October 12, 1978). According to the Whois information, the disputed domain name <macmillanbookpublishers.com> was registered on September 19, 2023, and the disputed domain name <macmillanbookpublishers.org> was registered on October 13, 2023. The Complainant submitted evidence that the disputed domain names have been used to publish websites bearing the Complainant's MACMILLAN mark and purporting to offer book publishing related goods and services, including ghostwriting, consultation, and self-publishing services.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are identical or confusingly similar to the Complainant's trademark; that the Respondents have no rights or legitimate interests in respect of the disputed domain names; and that the disputed domain names were registered and are being used in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Consolidation

There are two named Respondents (two underlying registrants disclosed by the Registrars) – one for each of the disputed domain names. The Complainant requests that both disputed domain names be consolidated into this matter. Consolidation is proper, so the Complainant's request for consolidation is granted. Paragraph 10(e) of the Rules states that a "[p]anel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules". Paragraph 10(c) of the Rules provides, in relevant part, that "the [p]anel shall ensure that the administrative proceeding takes place with due expedition". Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") summarizes the consensus view of UDRP panels on the consolidation of multiple respondents and provides that where a complaint is filed against multiple respondents, panels consider whether the domain names or corresponding websites are subject to common control, and whether the consolidation would be fair and equitable to all parties.

The record indicates the disputed domain names are under common control. The following facts support this conclusion: (1) both of the disputed domain names contain the MACMILLAN mark together with the word "publishers", (2) the websites set up at the two disputed domain names are very similar, (3) the two disputed domain names were registered relatively close in time (September and October 2023), and (4) the contact information for the Respondents contains the same city and country.

The Respondents have not presented any arguments as to why consolidation would be unfair or inequitable. Accordingly, conditions for proper consolidation of the disputed domain names into one matter are present here.

B. Identical or Confusingly Similar

This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain names are identical or confusingly similar to that mark. This element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the MACMILLAN mark by providing evidence of its trademark registrations.

The disputed domain names incorporate the MACMILLAN mark in its entirety. This is sufficient for showing confusing similarity under the Policy.

Accordingly, the Panel finds that the Complainant has established this first element under the Policy.

C. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondents lack rights or legitimate interests in respect of the disputed domain names. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondents (with the burden of proof always remaining with the Complainant).

On this point, the Complainant asserts, among other things, that: (1) the Complainant has not granted the Respondents authorization or license to use the MACMILLAN mark, (2) there is no business or legal relationship between the Complainant and the Respondents, (3) use of the disputed domain names to resolve to publishing websites using Complainant's trademark does not confer rights or legitimate interests, and (4) the Respondents have not been commonly known by the disputed domain names.

Instead, the Respondents have used the disputed domain names to establish websites that display the Complainant's mark and allegedly offer goods similar to those provided by the Complainant, reinforcing the impersonating nature of the disputed domain names' composition.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondents have not presented evidence to overcome this *prima facie* showing and nothing in the record otherwise tilts the balance in the Respondents' favor. Panels have held that the use of a domain name for illegal activity, here claimed impersonation/passing off for Respondent's financial gain, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

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. For example, under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or a product or service on [the respondent's] website or location".

In the present case, the Panel notes that the Respondents have used the disputed domain names to set up websites that bear the Complainant's mark and otherwise seek to imitate the Complainant. The Panel finds that this is a clear example of bad faith registration and use. The Respondent has provided no argument or evidence as to any proper basis for having registered and used the disputed domain name.

Accordingly, 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 names <macmillanebookpublishers.com> and <macmillanbookpublishers.org> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: January 5, 2024