

## **ADMINISTRATIVE PANEL DECISION**

Sling Media L.L.C. v. Mike Ak  
Case No. D2022-2350

### **1. The Parties**

The Complainant is Sling Media L.L.C., United States of America (“U.S.”), represented by Adsero IP, U.S.

The Respondent is Mike Ak, India.

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

The disputed domain name <sling-tv.net> is registered with Dreamscape Networks International Pte Ltd (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 28, 2022. On June 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 18, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 July 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 11, 2022.

The Center appointed Marilena Comanescu as the sole panelist in this matter on August 17, 2022. 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 is a U.S. provider of Internet television services; audio, video and multimedia communication services; video-on-demand services; audio, video and multimedia equipment; and audio and multimedia software.

The Complainant (directly or through affiliates) owns trademark registrations for or comprising SLING, such as the following:

- the U.S. word trademark registration number 3719986 for SLING, filed on September 1, 2008 and registered on December 1, 2009, covering goods and services in Nice classes 9, 38 and 41;
- the U.S. word trademark registration number 5481329 for SLING TV, filed on March 3, 2015 and registered on May 29, 2018, covering services in Nice class 42.

The Complainant owns the domain name <sling.com>, which was registered on September 12, 1999, and redirects to its official website.

The disputed domain name <sling-tv.net> was registered on February 28, 2022.

According to the evidence provided in the Complaint, the disputed domain name was used in connection with a website purportedly offering the Complainant's services, and was displaying the Complainant's trademark, product references and notes such as: "welcome to sling tv!". Also, the website under the disputed domain name invites the Internet users to enter their personal information in order to log into their accounts of Complainant's Sling TV services; and further conducts Internet users to inactive pages, primarily because the Respondent is not actually an authorized provider of the Complainant. Furthermore, the website under the disputed domain name claims copyright since 1998 and contains grammatical errors and misspellings.

Before commencing this proceeding, on April 27, 2022, the Complainant sent a cease and desist letter to the Respondent. No response was received; however, the content of the website under the disputed domain name changed several times.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar to its well-known trademark SLING, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name to it.

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

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

#### **6. Discussion and Findings**

In view of the Respondent's default, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

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

The Panel will further analyze the potential concurrence of the above circumstances.

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

The Panel finds that the Complainant holds rights in the SLING and SLING TV trademarks.

The disputed domain name <sling-tv.net> reproduces the Complainant's trademark SLING TV exactly, with a hyphen between the words and incorporates the Complainant's SLING trademark with an additional term, "tv". However, such addition does not prevent a finding of confusing similarity as the Complainant's trademark is clearly recognizable within the disputed domain name.

Numerous UDRP panels have considered that the addition of other terms (whether geographical wording, descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name does not prevent a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain ("gTLD") (e.g., ".com", ".site", ".info", ".shop") may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is identical to the Complainant's mark SLING TV and confusingly similar to the Complainant's mark SLING, pursuant to the Policy, paragraph 4(a)(i).

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

The Complainant asserts that the Respondent does not hold any trademark rights, license or authorization whatsoever to use the mark SLING, that the Respondent is not commonly known by the disputed domain name, and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services.

Under the Policy, "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". See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not replied to the Complainant's contentions and has not come forward with relevant evidence to rebut the Complainant's *prima facie* case.

There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain name.

Further, there is no evidence before the Panel to suggest that the Respondent has made a *bona fide* use of the disputed domain name, or has been known by this disputed domain name, or is making any legitimate noncommercial or fair use of the disputed domain name.

In fact, at the time of filing the Complaint the disputed domain name resolved to a commercial website featuring the SLING trademark and product references of the Complainant, falsely claiming to offer services related to Complainant's trademark SLING and asking visitors to provide their personal details. Panels have

categorically held that the use of a domain name for illegal activity (e.g. impersonation/passing off, phishing, distributing malware, or other types of fraud) can never confer rights or legitimate interests on a respondent. See section 2.13.1 of the [WIPO Overview 3.0](#).

In addition, and without prejudice to the above, UDRP panels have found that domain names identical or highly similar to a complainant's trademark carry a high risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

For all these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

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

The Complainant holds trademark rights in SLING since at least 2008, respectively in the domain name <sling.com> since 1999.

The disputed domain name was created in February 2022 and reproduces the Complainant's trademark SLING TV exactly.

For the above reasons, the Panel finds that the disputed domain name was registered in bad faith, with knowledge of the Complainant, its business and particularly targeting the Complainant's trademark.

The Respondent is using without permission the Complainant's distinctive trademark in order to get traffic on its web portal and to obtain commercial gain from the false impression created for the Internet users with regard to a potential connection with the Complainant. This impression is created particularly by the incorporation of the Complainant's trademark in the disputed domain name, the content on the website provided thereunder which includes the Complainant's trademark, product references, and false information related to the services provided in relation to Complainant's Sling services.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other on-line 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" is evidence of registration and use in bad faith.

Given that the disputed domain name reproduces the Complainant's trademark and the website operated under the disputed domain name displays the Complainant's trademark, product references and falsely claims it is connected with the Complainant and distributes its services, indeed in this Panel's view, the Respondent intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain.

The Respondent appears also to have been using the disputed domain name for phishing activities, to deceive Internet users in order to obtain sensitive or confidential information from the actual or the prospective clients of the Complainant and this constitutes bad faith. See also section 3.4 of the [WIPO Overview 3.0](#).

Additionally, the redirection of Internet users, looking for the Complainant's services, to a non-functioning website may disrupt the Complainants' activity and tarnish its trademark.

The Respondent did not respond to the Complainant's letter and refused to participate in the present proceedings in order to provide arguments in its favor, the website under the disputed domain name contains grammatical errors and a false claim of copyright protection since 1998 whereas the disputed domain name was created in 2022. These are further evidence of bad faith.

Furthermore, it was consistently found by previous UDRP panels that the mere registration of a domain name that is identical or confusingly similar to a third party's famous or widely known trademark constitutes, by itself, a presumption of bad faith registration for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

## **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 <slings-tv.net> be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: August 30, 2022