

ADMINISTRATIVE PANEL DECISION

Dream Marriage Group, Inc. v. Digital Privacy Corporation / Alexander Dmytriiev

Case No. D2022-3102

1. The Parties

The Complainant is Dream Marriage Group, Inc., United States of America (“United States”), represented by The Internet Law Group, United States.

The Respondent is Digital Privacy Corporation / Alexander Dmytriiev, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <dream-marriage-brides.com> is registered with 101domain GRS Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 22, 2022. On August 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 24, 2022, 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 30, 2022 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 amendment to the Complaint on September 1, 2022.

The Center verified that the Complaint together with the amendment to 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 proceeding commenced on September 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 28, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on October 25, 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

A. Complainant

The Complainant is a company headquartered in the State of Nevada in the United States, and a provider, since 2003, of online dating and matchmaking services under the trade mark DREAM-MARRIAGE (the "Trade Mark"), via its English language website at "www.dream-marriage.com", having registered its domain name <dream-marriage.com> on December 17, 2003.

The Complainant is the owner of United States registration No. 3,760,949 for the Trade Mark, with a registration date of March 16, 2010.

B. Respondent

The Respondent is apparently an individual resident in Ukraine.

C. The Disputed Domain Name

The disputed domain name was registered on August 13, 2019.

D. Use of the Disputed Domain Name

The disputed domain name was previously resolved to an English language website offering dating and matchmaking services (the "Website"). As at the date of this Decision, the disputed domain name no longer resolved to an active website.

5. Further Procedural Considerations

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Noting that the location of the Respondent disclosed by the Registrar appears to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Further to the Rules, the Center transmitted the written notice of the Complaint to both the named Privacy Service and the Respondent. The Center also sent the Notification of Complaint by email to the Respondent at its email address as disclosed by the Registrar and to a postmaster email address as specified by the Rules. There is no evidence that the case notification email to the disclosed Respondent email address was not successfully delivered.¹

¹ The Respondent's email address disclosed by the Registrar contained a typographical error (the generic Top Level Domain "gTLD" was stated not as ".com" but as ".comz"). The Notification of Complaint was sent by the Center both to the email address disclosed by the Registrar (with the gTLD ".comz") and to the same email address with the apparent typo corrected. The email sent by the Center to the disclosed email address failed to deliver; whereas the email sent by the Center to the amended email address was successful.

The Panel notes that, at some stage following the filing of the Complaint, the Website has been taken down, and the disputed domain name no longer resolves to an active website, which suggests the Respondent's apparent awareness of this proceeding and control over the disputed domain name.

The Panel also notes that, as required under paragraph 3(b)(xii) of the Rules, the Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer or cancel the disputed domain name shall be referred to the jurisdiction of the Courts in the place where the principal office of the Registrar is located, namely, in Dublin, Ireland.

It is further noted that, for the reasons which are set out later in this Decision, the Panel considers (albeit in the absence of any Response) that the Respondent registered and has used the disputed domain name in bad faith and with the intention of unfairly targeting the Complainant's goodwill in its Trade Mark.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition, the Panel will proceed to a Decision accordingly.

6. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

7. Discussion and Findings

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

The disputed domain name incorporates the entirety of the Trade Mark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7), followed by the word "brides".

Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8).

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable

preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or

- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services. To the contrary, the Respondent has previously used the disputed domain name in connection with the Website, in order to promote and offer for dating and matchmaking services, in direct competition with those offered by the Complainant under the Trade Mark since 2003; and the disputed domain is presently not being used.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name; and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel therefore finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

In light of the manner of use of the disputed domain name highlighted in Section B. above, the Panel finds that the requisite element of bad faith has been made out, under paragraph 4(b)(iv) of the Policy.

The Panel considers the taking down of the Website at some stage following the filing of the Complaint provides further support for a finding of bad faith for the purposes of the Policy.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

8. 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 <dream-marriage-brides.com> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: November 4, 2022