

ADMINISTRATIVE PANEL DECISION

Sfanti Grup Solutions SRL v. Alamin Mia

Case No. D2023-0100

1. The Parties

- 1.1 The Complainant is Sfanti Grup Solutions SRL c/o Walters Law Group, United States of America ("U.S.").
- 1.2 The Respondent is Alamin Mia, U.S.

2. The Domain Name and Registrar

- 2.1 The disputed domain name <megapersonals.cam> (the "Domain Name") is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

- 3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 9, 2023. At the time the Complaint was filed publicly accessible Whois data for the Domain Name recorded the registrant as "Registrant Privacy service provided by Withheld for Privacy ehf" and the Complainant identified this as the Respondent in its Complaint.
- 3.2 On January 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing the underlying registrant and contact information for the Domain Name.
- 3.3 The Center sent an email to the Complainant on January 17, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. This email was also copied to a Gmail email address provided for the underlying registrant by the Registrar.
- 3.4 The Center then received an unsigned email from the Gmail address which stated as follows:

"Hey, I own this website. And why I face such cases. Can you confirm what the problem is with my domain or my website?"

- 3.5 The Center replied to the above communication providing general information on the Complaint and on the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”).
- 3.6 The Complainant filed an amendment to the Complaint on January 18, 2023. The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the 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”).
- 3.7 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 7, 2023.
- 3.8 On January 18, 2023 the Center received a further unsigned email from the Gmail address which stated as follows:

“Thank you for your assistance. I own this website. So why I need to transfer it.”

- 3.9 Then on February 8, 2023 and in response to an email from the Center notifying the parties that in the absence of a Response it would proceed to Panel Appointment, it received a further unsigned email from the Gmail address which stated as follows:

“I don't want to transfer my domain.”

- 3.10 The Center appointed Matthew S. Harris as the sole panelist in this matter on February 13, 2023. In response to the Center's notification of that appointment, the Center received a further unsigned email from the Gmail address which stated as follows:

“I want to keep my domain.”

- 3.11 Then on February 15, 2023 the Center received a further and more lengthy email from the Gmail address. It reads as follows:

“I am writing to you in regard to a domain dispute that has recently come to my attention. I am the owner of the domain "megapersonals.cam" and I have reason to believe that there may be attempts to infringe upon my domain rights.

As you may know, my domain is a valuable asset and I have invested significant time, effort and resources into building and promoting my website under this domain. Therefore, it is of utmost importance to me to protect my domain from any potential unauthorized use, infringement or misuse.

I hereby request that you take all necessary measures to protect my domain from any potential abuse or unauthorized usage, and ensure that all necessary steps are taken to safeguard my rights and interests in the domain. This includes, but is not limited to, closely monitoring the domain for any potential trademark infringement, fraudulent activity or malicious use.

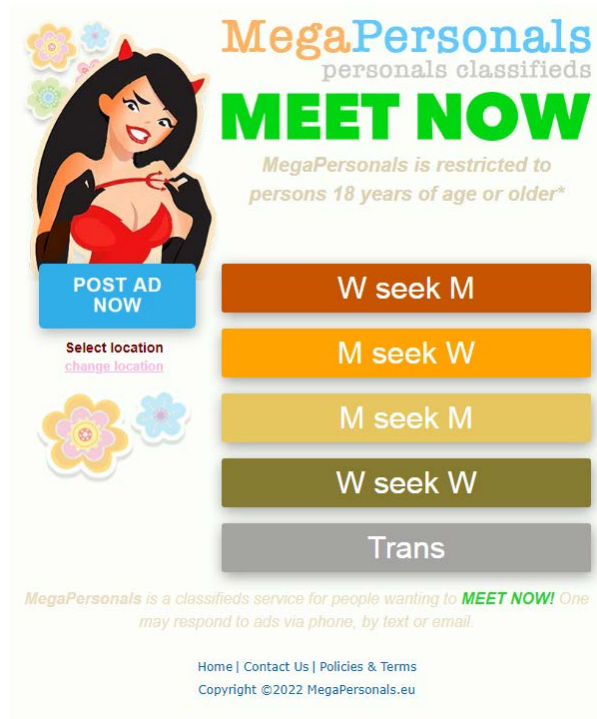
Please let me know if there are any additional steps that I can take to help protect my domain or if there are any further actions that you recommend I take in this situation.”

On this occasion the email was signed “Alamin Mia”.

- 3.12 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

- 4.1 The Complainant is a company incorporated in Romania. It owns and operates a website that uses the domain names <megapersonals.eu> and <megapersonals.com> in connection with the provision internet-based social introduction and dating services. This website has operated from the <megapersonals.com> domain name since at least March 2004.
- 4.2 The look of the website has changed over time but more recently the home page of the website has taken the following form:



- 4.3 The Complainant is the owner of United States registered trade mark no 6,432,591 for MEGAPERSONALS as standard characters in class 45 filed on October 26, 2020 and registered on July 27, 2021.
- 4.4 The Domain Name was registered on August 16, 2021. Since that date and prior to the commencement of these proceedings it has been used for a website that is close to identical to the home page of the Complainant's website. Minor changes include a change in the age restriction displayed to 21 years of age or older. The bottom of that page also contains the copyright notice "Copyright ©2021 Megaperasonals.com" and the text "For support email [...]@megaperasonals.com".
- 4.5 On November 22, 2022 the Complainant's US law firm sent an letter by email to the email address recorded at that time in the publicly available Whois details for the registrant of the Domain Name. That letter alleged that the website operating from the Domain Name was a "copycat of [the Complainant's] website designed to engage in malicious phishing activities to illegally access the accounts of [the Complainant's] users". It demanded that such activities cease and that the Domain Name be transferred to the Complainant. The Respondent did not respond to that letter.
- 4.6 The same website continues to operate from the Domain Name as at the date of the website with the further minor change (at least when the website is accessed from the United Kingdom) that the copyright notice displayed now reads "Copyright ©2021 Megapersonals.io". Further, a virtually identical website home page is displayed from the domain name <megaperasonals.com>.

5. Parties' Contentions

A. Complainant

- 5.1 The Complainant describes its business and marks, when the Domain Name was registered and how the Domani Name has been used since registration. It also refers to three previous decisions under the Policy in which it claims that its trade mark rights were recognised. These are *Sfanti Grup Solutions SRL v. Domain Admin, Whois Privacy Corp / Dmitri Iasibas*, WIPO Case No. [D2022-2309](#); *Sfanti Grup Solutions SRL v. Super Privacy Services LTD c/o Dynadot / Ion Danilov*; WIPO Case No. [D2022-1273](#), and *Sfanti Grup Solutions SRL v. Privacy Service Provided by Withheld for Privacy ehf / Raihan Ali, ViableTech, 3637 Worthington Way robinson, 1702 Fancher Drive*, WIPO Case No. [D2022-0977](#) (May 11, 2022).
- 5.2 The Complainant contends that the Domain Name is identical or confusingly similar to its trade mark. In particular it contends that it is identical since the Domain Name fully and solely incorporates the mark, together with the ".cam" Top-Level Domain ("TLD") which is "disregarded" with it comes to the first aspect of the Policy; citing in this respect section 1.11.1 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)").
- 5.3 The Complainant further maintains that the Respondent has no rights or legitimate interests in the Domain Name contending that the use made by the Respondent of the Domain Name has been to create a "copycat of multiple pages of the Complainant's website" that is "exceedingly likely" to mislead internet users and such activities do not constitute a *bona fide* offering of goods and services. It also contends that this has been done to offer "illegal phishing services" and that this is another reason why the Respondent is not engaged in a *bona fide* offering of goods and services.
- 5.4 The Complainant further asserts that it is apparent from the content of the website operating from the Domain Name that the Respondent was aware of the Complainant's trade mark rights when it registered the Domain Name, and that the Domain Name was registered and has been used in bad faith to "divert Internet traffic from Complainant's site to a website offering social introduction services in direct competition with Complainant via a website which mimics the Complainant's website". Reliance is also placed on the Respondent's lack of response to the Complainant's lawyers cease and desist letter and the use of a privacy service to support the claims of bad faith.

B. Respondent

- 5.5 The Respondent did not file a formal Response to the Complainant's contentions.

6. Discussion and Findings

- 6.1 There are no exceptional circumstances within paragraph 5(f) of the Rules so as to prevent the panel from determining the dispute based upon the complaint, notwithstanding the failure of any respondent to lodge a response.
- 6.2 To succeed in these proceedings the Complainant must make out its case in all respects under paragraph 4(a) of the Policy. Namely, the Complainant must prove that:
- (i) the Domain Name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights (paragraph 4(a)(i)); and
 - (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name (paragraph 4(a)(ii)); and
 - (iii) the Domain Name has been registered and is being used in bad faith (paragraph 4(a)(iii)).

- 6.3 However, under paragraph 14(b) of the Rules, where a party does not comply with any provision of the Rules, the Panel shall “draw such inferences therefrom as it considers appropriate”.

A. Identical or Confusingly Similar

- 6.4 The Complainant has satisfied the Panel that it has registered trade mark rights in the term “Megapersonals”. In order to demonstrate the first element of the Policy, it is usually sufficient for a complainant to show that the relevant mark is “recognizable with the disputed domain name” (see section 1.7 of the [WIPO Overview 3.0](#)).
- 6.5 The Domain Name can most sensibly be understood as the term “Megapersonals” combined with the “.cam” gTLD. The Complainant’s mark is, therefore, clearly recognisable in the Domain Name.
- 6.6 The Complainant has, therefore, satisfied the Panel that the Domain Name is at least confusing similar to a trade mark in which it has rights and it has thereby made out the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests and Registered and Used in Bad Faith

- 6.7 It is usual for panels under the Policy to consider the issues of rights or legitimate interests and registration and use in bad faith in turn. However, in this case it is more convenient to consider those issues together.
- 6.8 The Panel accepts that the Domain Name has been deliberately registered and held with the intention of operating a website which falsely impersonates the Complainant. This is placed beyond any serious doubt by the content of the website that has operated from the Domain Name. The Panel accepts that this is essentially a “clone” of the Complainant’s site among other things the layout, colouring and the cartoon of a woman that appears on the Complainant’s site. Although this does not formally form part of the Complainant’s case (and the Panel has not needed to rely upon this in coming to its decision), from the material provided by the Complainant it also appears that the Domain Name is one of a number of domain names that could be considered variants of the Complainant’s <magapersonals.com> domain name that is being used by the Respondent to impersonate the Complainant.
- 6.9 The Complainant contends that the reason why the Respondent has done this is to engage in illegal phishing. That may be so, but whether or not it is, the Respondent’s false impersonation of the Complainant is sufficient for the Complainant to make out its case in respect of the second and third limbs of the Policy. There is no right or legitimate interest in holding and using a domain name in a manner that falsely impersonates another (see, for example, *Vestey Group Limited v. George Collins*, WIPO Case No. [D2008-1308](#), where there was also cloning of the complainant’s website). Similarly, registering and holding a domain name in such a manner involves registration and use in bad faith. The Respondent’s activities in this case also fall within the example of circumstances indicating bad faith registration and use set out in paragraph 4(b)(iv) of the Policy.
- 6.10 The Respondent’s protestations in email correspondence insofar as they are intelligible at all are no answer to the Complainant’s claims in this respect.
- 6.11 The Complainant has, therefore, made out the requirements of paragraph 4(a)(ii) and (iii) of the Policy.

7. Decision

- 7.1 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, <megapersonals.cam> be transferred to the Complainant.

/Matthew S. Harris/

Matthew S. Harris

Sole Panelist

Date: February 27, 2023