

ADMINISTRATIVE PANEL DECISION

Mid-America Apartment Communities, Inc. v. Timmy Argo and Craig Silver,
MAA Apartments
Case No. D2023-1171

1. The Parties

Complainant is Mid-America Apartment Communities, Inc., United States of America (“United States”), represented by Bass, Berry & Sims PLC, United States.

Respondent is Timmy Argo, United States, and Craig Silver, MAA Apartments, United States. Respondents will be individually and collectively referred to as “Respondent”.

2. The Domain Names and Registrars

The disputed domain names <maa.apartments>, <maaapartments.com>, <maafraud.com> (the “MAA Domain Names”) are registered with Google LLC

The disputed domain name <megaawesomeapartments.com> (the “Mega Domain name”) is registered with Wix.com Ltd.

Both Registrars are collectively identified as the “Registrar”.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 16, 2023. On March 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 16, 2023, and March 27, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251 and Redacted for Privacy, Wix.com Ltd) and contact information in the Complaint. The Center sent an email to Complainant on March 27, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. The Parties explored settlement negotiations and the proceedings were suspended on April 4, 2023. After several requests of extension of the suspension, on September 6, 2023, Complainant requested the reinstatement of the proceedings, and the proceedings were reinstated on September 8, 2023. Complainant filed an amended Complaint on September 23, 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 Respondent of the Complaint, and the proceedings commenced on September 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 17, 2023. Respondent did not submit any response. Accordingly, the Center notified sent the communication of Commencement of Panel Appointment Process on October 19, 2023.

The Center appointed Robert A. Badgley as the sole panelist in this matter on October 25, 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.

4. Factual Background

According to the Complaint:

“Mid-America Apartment Communities, Inc., also known as (“MAA”), is one of the largest residential management companies in the nation and is the second-largest owner of apartments in the United States. MAA’s real estate portfolio includes thousands of residences and luxury apartment communities throughout the Southeast, Southwest, and Mid-Atlantic regions of the United States. With a network of over 100,000 homes and 296 communities across 16 states in their real estate portfolio, MAA is a residential management leader.”

Complainant asserts that it has been in business since 1994, and it holds a number of registered trademarks, including United States Patent and Trademark Office (“USPTO”) Reg. No. 4,009,475 for MAA, registered on August 9, 2011, in connection with “Leasing of apartments” with a March 11, 2011, date of first use in commerce. Complainant also holds USPTO Reg. No. 3,268,349 for MID-AMERICA APARTMENT COMMUNITIES, registered on July 24, 2007, in connection with “Leasing of apartments; Leasing of real estate; Rental of Apartments” with a September 1994 date of first use in commerce.

Complainant operates a commercial website to promote its business via the domain name <maac.com>.

The disputed domain names were registered on March 4, 2023 (the MAA Domain Names) and March 5, 2023 (the Mega Domain Name). The MAA Domain Names are redirected to the website located at the Mega Domain Name. At that site, the user sees the header “MAA Mega Awesome Apartments,” and “FIND YOUR MEGA AWESOME APARTMENT!” The site also invites visitors to provide their contact information to seek employment with Respondent’s purported company.

Complainant states that it has not licensed or otherwise authorized Respondent to use its MAA mark in a domain name or otherwise. Complainant further alleges as follows:

“Upon information and belief, the Disputed Domain Names resolve to a website containing information and rank apartment management companies. [...] The Disputed Domain Names currently resolves [*sic*] to a website containing links to third-party apartment management companies and disparages the Complainant’s services. [...] Respondent lists Mid-America Apartment Communities, Inc. as one of its ‘least favorite companies’ on the home page of the megaawesomeapartments.com website.”

Complainant also alleges:

“Respondent, or someone acting on its behalf, is emailing Complainant through an anonymous portal by making veiled threats and disparaging comments about Complainant’s employees. At least one of these messages reference the Disputed Domains and its alleged ‘[h]uge social media following,’ and imply that the plan is for the Disputed Domains to harass and disrupt Complainant’s business and intentionally confuse its customers. [...] Complainant asserts that such conduct is not indicative of any legitimate business activity but instead supports the assertion Respondent has actual knowledge of Complainant’s business and wants to destroy it. In addition, the owner of the Disputed Domains has set up a LinkedIn Account that includes false details which are obviously intended to mislead customers into believing the false account belongs to Complainant, such as stating that Respondent’s business is based in Memphis (as is Complainant), that is far larger than it actually is (falsely states it has 11-60 employees), and that its CEO is a non-existent person named ‘Craig Silver.’ [...] Mr. Silver’s photograph is that of a clip art picture of ‘older man,’ rather than belonging to a real individual.”

Complainant supplies annexes to the Complaint in support of the foregoing allegations. Respondent has not denied any of the foregoing allegations or questioned any of the documents annexed to the Complaint.

On March 28, 2023, Respondent wrote to the Center, stating:

“If Bass Berry [Complainant’s counsel] would like the domains. They can have them. We did not intend to violate any copyright infringement. We did not intend to profit in any way from the use of the acronym MAA. MAA was an acronym for our company, Mega Awesome Apartments. We understood several other companies use the acronym MAA—notably Mathematical Association of America: Homepage. We respectfully allow the transfer of the four websites listed above to Bass, Berry, or their client.”

In its amended Complaint, filed after the proceedings were resumed, Complainant made additional allegations about Respondent:

“Respondent Philipson was formerly employed as a property manager for MAA. Philipson gave notice to MAA in late March of 2021, stating that he was leaving to pursue his acting career. He later changed his mind and tried to withdraw his resignation a few days later. However, he made a number of negative comments about MAA on or about the time he gave notice. Accordingly, MAA determined that it was not in its best interest to allow him to withdraw his resignation and decided to pay him in lieu of letting him work out his notice. This series of events upset Mr. Philipson and ignited his long and relentless vendetta against MAA. [...]

Mr. Philipson continues to make complaints, some using his own name, some not, via an anonymous whistleblower portal. [...] It is notable that one of the email addresses that Respondent gave to Google for the Disputed Domains [corresponds to the real person who] is an MAA’s Chief Strategy and Analysis Officer and did not purchase the Disputed Domains. [...] Not content with simply making bogus complaints, he set about confuse and alienate MAA customers by misappropriating and using the MAA Marks as part of several Uniform Resource Locators (“URL’s”) that resolve to the infringing website www.megaawesomeapartments.com.”

Respondent has not disputed these additional allegations.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of each of the disputed domain names.

B. Respondent

Apart from the March 28, 2023, email quoted above, Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to each of the Domain Names:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the trademarks MAA and MID-AMERICA APARTMENT COMMUNITIES, through registration and use demonstrated in the record.

With respect to identity or confusing similarity, it is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Panel concludes that the MAA Domain Names are identical or confusingly similar to Complainant's MAA trademark. In the case of the domain name <maa.apartments>, the domain name is identical to the mark, because typically the Top-Level Domain (here, ".apartments") is not considered when determining confusing similarity. In the case of the domain names <maaapartments.com> and <maafraud.com>, the domain names entirely incorporate the MAA mark, and the MAA mark is recognizable within these domain names. Accordingly, the three MAA Domain Names are identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

With respect to the Mega Domain Name, <megaawesomeapartments.com>, the Panel reaches a different conclusion. Complainant's relevant trademarks are MAA and MID-AMERICA APARTMENT COMMUNITIES. In the Panel's view, neither of these trademarks is recognizable within the Mega Domain Name. Only the word "apartment" appears in both the Domain Name and one of Complainant's trademarks. That word, on its own, is descriptive of the services offered by Complainant. The fact that it appears in both the Mega Domain Name and one of Complainant's marks is not enough, in the Panel's view, to make the mark recognizable within the Domain Name.

In sum, Complainant has established Policy paragraph 4(a)(i) with respect to the three MAA Domain Names but has not done so with respect to the Mega Domain Name. The Panel will not consider the Mega Domain Name in its discussion, below, of the second and third elements of the Policy. Going forward, the Panel will refer to the "MAA Domain Names" as the "Domain Names."

B. Rights or Legitimate Interests

For each of the Domain Names, pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Names, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent does not have a legitimate interest in respect of the Domain Names. On the record presented, it appears to the Panel that Respondent had no authority to use Complainant's MAA mark in a domain name or otherwise, but did so because he had a personal vendetta against Complainant and sought to wreak economic harm on Complainant by creating consumer confusion between the MAA mark and the website to which the Domain Names resolve. Such conduct does not vest Respondent with a legitimate interest vis-à-vis the Domain Names.

Complainant has not established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

For each of the Domain Names, paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Names in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Names primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registrations to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Names; or
- (ii) that Respondent has registered the Domain Names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Names primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Names, Respondent has intentionally attempted 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 of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Names in bad faith. The Panel incorporates here its discussion above in the "Rights or Legitimate Interests" section. It is clear that Respondent had Complainant's mark in mind when registering the Domain Names. It was plausibly alleged, and not denied, that Respondent was formerly affiliated with Complainant. Further, Respondent's website specifically identifies Complainant's company by name in a disparaging comment.

With respect to bad faith use, the Panel finds that Respondent set up a website purporting to be a business (including an invitation to apply for employment with Respondent), and to offer real estate locating services and provide hyperlinks to unrelated firms offering apartment management services. The Panel concludes that Respondent's registration and use of the Domain Name falls within the above-quoted Policy paragraph 4(b)(iv), and hence constitutes bad faith registration and use of the Domain Name.

Complainant has established 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 names <maa.apartments>, <maaapartments.com>, and <maafraud.com> be transferred to Complainant.

With respect to the disputed domain name <megaawesomeapartments.com>, the Complaint is denied.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: November 8, 2023