

ADMINISTRATIVE PANEL DECISION

Morgan Wallen v. Nano Techan
Case No. D2023-1197

1. The Parties

The Complainant is Morgan Wallen, United States of America (“United States”), represented by Loeb & Loeb, LLP, United States.

The Respondent is Nano Techan, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <morgan-wallen.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 16, 2023. On March 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 17, 2023, 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 (Unknown Registrant, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 22, 2023, 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 March 23, 2023.

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 proceedings commenced on March 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 17, 2023.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on April 21, 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

The Complainant is a country music singer and songwriter who made his public music debut on the sixth edition of the American television singing reality competition, *The Voice*, in 2014. Since this television contest, the Complainant's music career has been awarded with various Country Music Awards, American Music Awards, Academy of Country Music Awards, Billboard Awards, over 12.3 billion on-demand streams, multi-platinum certifications and 4 consecutive music chart-toppers in United States. The Complainant tours throughout United States and internationally, including in Canada and United Kingdom. The Panel, under its general powers, has consulted the Complainant's official website at "www.morganwallen.com".

The Complainant owns a trademark registration for his birth name and brand MORGAN WALLEN, namely United States Trademark Registration No. 6,173,560, MORGAN WALLEN, word, registered on October 13, 2020, in classes 9, 25, and 41.

The Complainant further owns a domain name corresponding to his name and trademark MORGAN WALLEN, <morganwallen.com> (registered on March 5, 2014), which resolves to his official website and online official store, where the Complainant promotes its music and tours, and commercializes official merchandise and CDs.

The disputed domain name was registered on September 19, 2022, and resolves to a website, in English language, at the domain name <morganwallen-merch.com>. This website commercializes merchandise related to the Complainant, and it includes at its heading the Complainant's name and trademark MORGAN WALLEN, as well as the phrase (in capital letters) "THE BEST STORE OF MORGAN WALLEN". The "About Us" section of this site indicates, "Here at MORGAN WALLEN SHOP, we're obsessed in creating things that YOU are obsessed with [...]" and "[...]Plus – this ensures that every single product on our store cannot be found anywhere else in this universe!"; and the copyright note indicates "2023 Morgan Wallen Merchandise Store. All Rights Reserved". This site does not inform about the identity of the owner of the site or that of the disputed domain name, and its relationship or lack of relationship with the Complainant.

5. Parties' Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

The Complainant and its trademark has achieved considerable goodwill and reputation. The Complainant has invested millions of dollars in advertising and promoting his musical services throughout the United States, in other countries, and on his official website at "www.morganwallen.com".

The disputed domain name is identical to the Complainant's name and trademark. The insertion of a dash in the disputed domain name is not sufficient to distinguish it from the Complainant's registered trademark and name.

The Respondent has no rights or legitimate interest in the disputed domain name. The Respondent is not affiliated with the Complainant, and is not authorized to use the Complainant's name and trademark MORGAN WALLEN. The Respondent has not made a legitimate noncommercial or fair use of the disputed domain name, or a *bona fide* offering of goods or services. The Respondent is operating a retail business that prominently displays the Complainant's registered mark and name to confuse and mislead consumers as to the source of its unauthorized merchandise, divert consumers away from the Complainant's authorized

merchandise channels, and monetarily benefit from the substantial time and resources invested in building the MORGAN WALLEN brand.

The disputed domain name was been registered and is been used in bad faith. The Respondent's use of the name and registered trademark MORGAN WALLEN without having any connection with the Complainant, evidences bad faith. It would be impossible for the Respondent to make a good faith use of the disputed domain name. The disputed domain name was registered long after the first use of the Complainant's mark and his name in the market (in 2014). The use of a privacy service for the registration of the disputed domain is further evidence of bad faith, and, if the Respondent fails to provide a substantive response to the Complaint, this fact should be deemed sufficient to raise a *prima facie* case of bad faith registration and use.

The Complainant has cited previous decisions under the Policy and various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") that it considers supportive of its position, and requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

The Complainant has rights in the MORGAN WALLEN mark, both by virtue of its trademark registration, and its continuous use of this name as trademark since 2014.

The disputed domain name incorporates the MORGAN WALLEN mark in its entirety, adding a hyphen to separate the terms "morgan" and "wallen", and the generic Top-Level-Domain ("gTLD") ".com". The Complainant's trademark and name is recognizable in the disputed domain name, and the gTLD ".com" is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity. See sections 1.7, 1.8, and 1.11.1, [WIPO Overview 3.0](#).

Panels have repeatedly considered that, as a domain name cannot include spaces, the use of a hyphen to separate the terms included in a domain name should be disregarded for the purpose of the analysis of the first element of the Policy. The hyphen serve only a mere technical purpose to separate the terms included in the domain name, and does not affect identity or confusing similarity. See, *e.g.*, *ABG Juicy Couture, LLC v. Jing Zhang*, WIPO Case No. [D2022-4391](#); *Averitt Express, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-0778](#); and *The Channel Tunnel Group Ltd. v John Powell*, WIPO Case No. [D2000-0038](#).

Accordingly, the Panel finds the disputed domain name is identical to the Complainant's trademark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

B. Rights or Legitimate Interests

The Complainant's assertions and evidence effectively shift the burden to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name, providing the circumstances of paragraph 4(c) of the Policy, without limitation, that may establish rights or legitimate interests in the disputed

domain name in order to rebut the Complainant's *prima facie* case. See section 2.1, [WIPO Overview 3.0](#). The Respondent, however, has not replied to the Complainant's contentions, not providing any explanation and evidence of rights or legitimate interests in the disputed domain name.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel considers that the Complainant has constructed a strong *prima facie* case evidencing that the Respondent has not been authorized to use the Complainant's name and trademark MORGAN WALLEN, there is no relationship between the Parties, and the disputed domain name has not been used in connection to a *bona fide* offering of goods or services.

The Panel notes that the Respondent's name revealed by the Registrar verification shares no similarity with the disputed domain name.

The Panel further notes that the disputed domain name generates an affiliation with the Complainant's name and trademark. The fact that the disputed domain name is identical to the Complainant's name and the MORGAN WALLEN mark, only adding a hyphen to separate its terms, generates an implied affiliation that suggests that the disputed domain name is owned or sponsored by the Complainant.

Additionally, the Panel notes that other circumstances of this case enhance this implied affiliation impeding to consider that the disputed domain name is used for a *bona fide* offering of goods or services. In this respect, the Panel has corroborated that the disputed domain name is used in connection to an online store that prominently displays the Complainant's trademark and name MORGAN WALLEN and announces itself as "THE BEST STORE OF MORGAN WALLEN". This website further reproduces the look and feel of the Complainant's official website at "www.morganwallen.com" using a similar design and composition, and does not contain any information about its owner or that of the disputed domain name, and its lack of relationship with the Complainant. These circumstances generate a false affiliation with the Complainant and his trademark, and impede to consider that the disputed domain name is used in connection with a *bona fide* offering of goods or services under the Policy.

It is further remarkable that the Respondent has chosen not to reply to the Complaint, not providing any evidence of any rights or legitimate interests in the disputed domain name.

Therefore, the circumstances of this case lead the Panel to conclude that nothing in the case file gives any reason to believe that the Respondent has any rights or legitimate interests in respect of the disputed domain name, and the second element of the Policy under paragraph 4(a)(ii) has been established.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establishes that the disputed domain name has been registered and is being used in bad faith.

The applicable standard of proof is, likewise, the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel, under its general powers articulated *inter alia* in paragraph 10 of the Rules, has corroborated the extensive presence of the Complainant over the Internet. Any search over the Internet reveals the Complainant, his various songs and albums, and his popular appearances and concerts. These circumstances together to the Complainant's participation in the American television singing reality competition, *The Voice*, in 2014, and in other appearances in the United States television, leads the Panel to consider that the Complainant and his brand enjoys international notoriety within the music industry, and reputation within the United States public.

The Panel further considers that all cumulative circumstances of this case point to bad faith registration and use of the disputed domain name:

- (i) the Complainant and his trademark have international notoriety within the music industry (where the Complainant and his mark has been continually used since 2014), and strong presence over the Internet, with substantial coverage in the United States television and the Internet;
- (ii) the disputed domain name incorporates the Complainant's name and trademark MORGAN WALLEN identically, only adding a hyphen to separate its terms, denoting a risk of confusion or implied association, and creating the impression that the disputed domain name is owned or sponsored by the Complainant;
- (iii) the disputed domain name is further almost identical to the Complainant's domain name <morganwallen.com>, which is used by the Complainant for his official website and online store;
- (iv) the disputed domain name is linked to a website that prominently displays the Complainant's name and brand MORGAN WALLEN, reproduces the Complainant's official website look and feel, and includes expressions that lead to consider that it is owned or sponsored by the Complainant (such as "THE BEST STORE OF MORGAN WALLEN", or "Here at MORGAN WALLEN SHOP" or "Plus – this ensures that every single product on our store cannot be found anywhere else in this universe!"); and
- (v) the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name, and has not come forward to deny the Complainant's assertions of bad faith, choosing not to reply to the Complaint.

Therefore, on the balance of probabilities, taking into consideration all cumulative circumstances of this case, the Panel considers that the disputed domain name was registered and has been used targeting the Complainant's trademark and name MORGAN WALLEN in bad faith, in an effort to take unfair advantage of the reputation the Complainant has achieved, by creating a false affiliation to his name and brand, for a commercial gain, which constitutes bad faith under the Policy.

All of the above-mentioned circumstances lead the Panel to conclude that the disputed domain name was registered and is being used in bad faith. Accordingly, the Panel concludes that the Complainant has met its burden of establishing that the Respondent registered and is using the disputed domain name in bad faith under the third element of the Policy.

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, <morgan-wallen.com>, be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: April 28, 2023