

ADMINISTRATIVE PANEL DECISION

Monster Energy Company v. Christopher Martin

Case No. D2023-2561

1. The Parties

Complainant is Monster Energy Company, United States of America (“United States”), represented by Knobbe, Martens, Olson & Bear, LLP, United States.

Respondent is Christopher Martin, United States.

2. The Domain Name and Registrar

The disputed domain name <monsterenergy.work> is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 14, 2023. On June 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 15, 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) and contact information in the Complaint. The Center sent an email communication to Complainant on June 15, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 19, 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 June 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 17, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 20, 2023.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on July 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

Complainant, Monster Energy Company, is an American beverage company that manufactures, markets and distributes a range of energy drinks, shakes, and other beverage products. The company was originally founded as Hansen Beverage Company and renamed itself as Monster Energy Company in January 2012.

Complainant has used the name and mark MONSTER ENERGY in connection with its energy drinks since 2002 and owns an extensive portfolio of trademark registrations for the MONSTER ENERGY mark, and variants thereof that consist of MONSTER alone or with other words, around the world. Of particular relevance to this proceeding, Complainant owns a number of United States trademark registrations for the MONSTER ENERGY mark both as a word mark and as part of a logo. These include, by way of example, Registration No. 3,044,315 for MONSTER ENERGY that issued to registration on January 17, 2006, Registration No. 3,057,061 for MONSTER ENERGY that issued to registration on February 7, 2006, and Registration No. 4,036,681 for MONSTER ENERGY that issued to registration on October 11, 2011. Complainant also owns and uses the domain name <monsterenergy.com> to provide information concerning Complainant, its activities and products.

Respondent appears to be based in the United States and registered the disputed domain name on March 5, 2023. The domain name currently resolves to a registrar page that provides information about the registrar and a statement which advises that “[t]he owner of this domain name hasn’t put up a website yet.”

5. Parties’ Contentions

A. Complainant

Complainant maintains that its MONSTER ENERGY mark is well-known by virtue of Complainant’s extensive use of the mark since 2002 and the immense popularity of Complainant’s beverage products. Complainant also claims strong rights in its MONSTER ENERGY mark by virtue of Complainant’s extensive portfolio of trademark registrations around the world for the MONSTER ENERGY mark.

Complainant argues that the disputed domain name is identical and/or confusingly similar to Complainant’s MONSTER ENERGY mark as it fully and clearly consists of that trademark “followed by the Top-Level Domain suffix, ‘work.’”

Complainant contends that Respondent has no rights or legitimate interests in the disputed domain name as Respondent (i) is not commonly known by the disputed domain name, (ii) has not been authorized or licensed by Complainant to use its well-known MONSTER ENERGY mark in a domain name, and (iii) has not made any *bona fide* or legitimate non-commercial fair use of the disputed domain name.

Lastly, Complainant asserts that Respondent has registered the disputed domain name in bad faith as the disputed domain name consists of the exact MONSTER ENERGY mark and was registered by Respondent well after Complainant’s MONSTER ENERGY mark became well-known.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;

- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. Section 1.2.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Complainant has provided evidence that it owns a trademark registration for the MONSTER ENERGY mark and many other marks consisting of MONSTER alone or with other words, and that such issued to registration years before Respondent registered the disputed domain name.

With Complainant's rights the MONSTER ENERGY mark established, the remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the general Top-Level Domain ("gTLD") such as ".work" here) is identical or confusingly similar with Complainant's mark. See *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#). The threshold for satisfying this first element is low and generally panels have found that fully incorporating the identical mark in a disputed domain name is sufficient to meet this standing requirement.

In the instant proceeding, the disputed domain name is identical to Complainant's MONSTER ENERGY as it fully and solely consists of the MONSTER ENERGY mark. The Panel therefore finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in Complainant's MONSTER ENERGY mark and in showing that the disputed domain name is confusingly similar to that trademark.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the complainant must make at least a *prima facie* showing that the respondent possesses no rights or legitimate interests in a disputed domain name. *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once the complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Here, there is no evidence that Respondent has made any use of the disputed domain name since registering it on March 5, 2023, apart from posting a registrar parked page that advises that "[t]he owner of this domain name hasn't put up a website yet." Additionally, Respondent has chosen not to provide any explanation for registering the disputed domain name that is identical to Complainant's well-known MONSTER ENERGY mark.

To be sure, because the disputed domain name consists solely of the MONSTER ENERGY mark it carries a high risk of being seen as connected to or affiliated with Complainant. Indeed, a web user seeing the disputed domain name could reasonably believe that it is related to Complainant, its MONSTER ENERGY products or some employment, working activity or opportunity connected to Complainant. As such, the disputed domain name, in the absence of any credible explanation, essentially impersonates Complainant and cannot constitute a fair use or legitimate interest. [WIPO Overview 3.0](#) at section 2.5.

Given that Complainant has established with sufficient evidence that it owns rights in the MONSTER ENERGY mark, and given Respondent's above noted actions, the Panel concludes that Respondent does not have rights or legitimate interests in the disputed domain name and that none of the circumstances of paragraph 4(c) of the Policy are evident in this case.

C. Registered and Used in Bad Faith

Under established Policy criteria, bad faith has generally been found to exist where a respondent registers and uses a domain name to take unfair advantage of or to otherwise abuse a complainant's mark. Within that framework the non-use of a domain name has been found, under the appropriate circumstances, to support a finding of bad faith. In making that assessment, Panel's typically consider a number of factors such as (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details, and (iv) the implausibility of any good faith use to which the domain name may be put. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); see also [WIPO Overview 3.0](#) at section 3.3.

To date, Respondent, as already noted, has not made any use of the disputed domain name since registering it on March 5, 2023. And while only four months have passed since the disputed domain name was registered, it is telling that Respondent has never posted anything at the disputed domain name that would even remotely support the notion that Respondent intended some sort of credible *bona fide* or fair use of the disputed domain name. Indeed, Respondent has failed to appear in this proceeding to explain or justify any of his actions.

But beyond such failures, it is questionable whether Respondent could plausibly provide a good faith basis for registering the disputed domain name that solely and fully consists of Complainant's exact MONSTER ENERGY mark which enjoys a fairly robust reputation, at least in the energy drink and beverage industries. A simple Internet search would have immediately revealed Complainant's rights and extensive use of the MONSTER ENERGY mark. It thus seems quite unlikely that Respondent was not aware of the MONSTER ENERGY mark when he registered the disputed domain name. If anything, what Respondent's actions and the timing of the disputed domain name registration show is that Respondent likely opportunistically and in bad faith registered the disputed domain name for Respondent's benefit. Under these circumstances, the Panel can easily conclude that Respondent has acted in bad faith and Complainant prevails under the third element.

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, <monsterenergy.work>, be transferred to Complainant.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: August 4, 2023