

## **ADMINISTRATIVE PANEL DECISION**

Bad Kitty's Dad, LDA v. Abbigail Abril  
Case No. D2023-2696

### **1. The Parties**

The Complainant is Bad Kitty's Dad, LDA, Portugal, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Abbigail Abril, United States of America ("United States").

### **2. The Domain Names and Registrar**

The disputed domain names <minichat.chat> (the "first disputed domain name") and <omtv.tv> (the "second disputed domain name"), are registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 23, 2023. On June 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 23, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 26, 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 amended Complaint on June 28, 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 the Respondent of the Complaint, and the proceedings commenced on June 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 24, 2023.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on July 31, 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 company headquartered in Portugal that operates in the field of games, entertainment software, and application (“app”) development, and has development teams in Europe and the United States. The Complainant operates various social networking platforms, with integrated text and/or online video chat, under the brands MINICHAT and OMETV (or OME TV), which are available over the Internet (at “www.minichat.com”, “www.ometv.chat”, and “www.ome.tv”), as well as through mobile app versions for iOS and Android. The Complainant’s social networking platforms have substantial popularity in its sector.<sup>1</sup>

The Complainant owns various trademark registrations for MINICHAT and OMETV (or OME TV), including:

- United States Trademark Registration No. 5192888 for MINICHAT, registered on April 25, 2017, in classes 9, and 38;
- United States Trademark Registrations Nos. 5833264 and 5833267 for OME TV, both registered on August 13, 2019, in classes 38, and 45, respectively; and
- European Union Trademark No. 018021225 for OMETV, registered on June 4, 2019, in classes 9, 35, and 38, (collectively the “MINICHAT mark” and the “OMETV mark”).

The Complainant operates various websites for its social networking platforms at various domain names, including <minichat.com> (possessed by the Complainant on November 26, 2013), <ome.tv> (registered on September 9, 2015), and <ometv.chat> (registered on June 23, 2017).

The first disputed domain name <minichat.chat> was registered on January 14, 2021; and the second disputed domain name <omtv.tv> was registered on May 23, 2023.

At the time of drafting this decision, the first disputed domain name redirects to a website in the English language at “www.chatroulettea.chat” that provides a “video chat roulette” to “video chat with just girls or random people”. This website has various sections (“Online”, “Download”, “Alternatives”, “About Us”, “Contact Us”, and “Privacy policy”) with no content, which all redirect to its homepage, and provides three options for “VIDEO CHAT WITH GIRLS”, “RANDOM VIDEO CHAT”, and “OMEGLE”. This last option (“OMEGLE”) redirects to a website at “www.omegletv.tv”, which also provides video chat social networking services.

According to the evidence provided by the Complainant, the first disputed domain name previously resolved to a website in the English language that featured the MINICHAT mark and used a combination of colors blue and red, similar to the color scheme associated to the Complainant’s MINICHAT website at “www.minichat.com”.

At the time of drafting this decision, the second disputed domain name redirects to a website in the English language at “www.ftfchat.com” that contains at its heading the term “FTFCHAT”, and below provides links to “VIDEO CHAT WITH GIRLS”, “RANDOM VIDEO CHAT”, and “OMEGLE”. This site contains various

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<sup>1</sup> According to the evidence provided by the Complainant, the MINICHAT website (at “www.minichat.com”) is ranked 340th most popular website in its category according to Similarweb.com, its mobile app has over 5 million downloads on Google, and is ranked No. 146 in the social networking category on Apple Store; and the OMETV website (at “www.ome.tv”) is ranked 130th most popular website in its category by Similarweb.com, the mobile app has over 100 million downloads on Google, and is ranked 39th in the social networking category on Apple Store.

expressions such as “Omegle like video chat-world of unlimited entertainment!”, or “Omegle - for fastest random chat similar to Omegle”, and, at the bottom of the page, it indicates “[ftfchat.com](#) - We are not affiliated with Ome Tv & Omegle.com LLC. and our site has no resemblance to ome.tv, ometv.tv, omegle.com LATEST BLOG, loveyou”. At the very end of the page, it provides various language options, a “contact us” with no content that redirects to the top of the landing page, and various links to other video chat services websites under the sections “Mirami Chat”, “Luckycrush”, “Flingster”, “Livetolives”, “Monkey App”, and “Chat Avenue”.

According to the evidence provided by the Complainant, the second disputed domain name previously resolved to a website in the English language that featured the OMTV mark at its heading, and provided the same options for “VIDEO CHAT WITH GIRLS”, “RANDOM VIDEO CHAT”, and “OMEGLE”. At the bottom of the page, it indicated “Omtv.tv - We are not affiliated with Ome Tv and our site ome.tv has no similarity”.

## 5. Parties' Contentions

### A. Complainant

Key contentions of the Complainant may be summarized as follows:

The first disputed domain name is identical to the MINICHAT mark, and the second disputed domain name is confusingly similar to the OMETV mark. The second disputed domain name differs from the Complainant's OMETV trademark by just one letter (removing the letter “e”), and is a prototypical example of typosquatting. The use of the disputed domain names in connection to the websites that offer the same services offered by the Complainant contributes to the confusion.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent is not commonly known by the disputed domain names, is not sponsored by or affiliated with the Complainant, and has no authorization to use the Complainant's trademarks. The Respondent's name does not resemble the disputed domain names. The disputed domain names were acquired by the Respondent after the first use of the Complainant's trademarks (in 2016 the MINICHAT mark, and in 2015 the OMETV mark), and carry high risk of implied affiliation or misrepresentation. The use of the disputed domain names demonstrates an attempt of impersonating the Complainant to generate a false impression of affiliation and to redirect to third parties' websites that compete with the Complainant's business. The disclaimer placed at the bottom of the home page linked to the second disputed domain name, is not prominent or effective, and it may well be overlooked.

The disputed domain names were registered and are being used in bad faith. The Complainant's trademarks are known worldwide in its field, and the disputed domain names reproduce these marks identically or with a common, obvious, or intentional misspelling, which demonstrates the Respondent's knowledge of these marks and its bad faith. The use of the disputed domain names to pass off as the Complainant, and the chosen generic Top-Level Domains (“gTLDs”), corresponding to the Complainant's area of business, further corroborates the Respondent's bad faith. The inclusion of a disclaimer on the second disputed domain name's website cannot cure such bad faith, and should be considered an admission by the Respondent that Internet users may be confused. The Respondent's actions generate a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the disputed domain names, in an attempt to increase traffic to the Respondent's websites for commercial gain, and to disrupt the Complainant's business.

The Respondent has also registered the domain name <ometv.tv>, which is the subject of a pending UDRP case (*Bad Kitty's Dad, LD v. Abigail Abril*, WIPO Case No. [DTV2023-0002](#), which provides evidence of a pattern of cybersquatting).<sup>2</sup>

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<sup>2</sup> At the time of drafting this decision, this case has already been decided in favor of the Complainant.

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 names.

## **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 Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the MINICHAT and OMETV trademarks.

The first disputed domain name incorporates the MINICHAT mark in its entirety with no additional element, and the second disputed domain name incorporates the OMETV mark omitting the letter "e", which can be considered a common, obvious, or intentional misspelling of this mark.

The first element of the Policy functions as a standing (or threshold) requirement. The Complainant's trademarks are recognizable in the disputed domain names, and the gTLDs, ".chat" and ".tv", are a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity. See sections 1.7, 1.9, and 1.11 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the first disputed domain name is identical to the Complainant's MINICHAT mark, and the second disputed domain name is confusingly similar to the Complainant's OMETV mark. Therefore, 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 names (providing the circumstances of paragraph 4(c) of the Policy, without limitation), in order to rebut the Complainant's *prima facie* case. See section 2.1, [WIPO Overview 3.0](#).

However, the Respondent has not replied to the Complainant's contentions, and has not provided any explanation and evidence of rights or legitimate interests in the disputed domain names.

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 is neither commonly known by the disputed domain names, nor has been authorized to use the Complainant's trademarks, and there is no relationship between the Parties. In this respect, the Panel notes that the Respondent's name (revealed by the Registrar's verification) shares no resemblance with the disputed domain names. The Panel, under its general powers articulated, *inter alia*, in paragraph 10 of the Rules, has further corroborated through a search over the WIPO Global Brand Database that the

Respondent holds no trademark rights over the terms “minichat”, “mini chat”, “omtv”, “ometv”, or “ome tv”.

The Panel further notes that the first disputed domain name, which is identical to the MINICHAT mark, carries a high risk of implied affiliation with the Complainant as it is inherently misleading. The second disputed domain name is an obvious misspelling of the OMETV mark and that there is a risk that Internet users will not notice the subtle misspelling. The Panel therefore finds that the composition of the second disputed domain name carries a risk of implied affiliation with the Complainant as it may mistakenly be seen as effectively impersonating or suggesting some connection to the Complainant.

This implied affiliation has been further enhanced by the use of the disputed domain names. In this respect, the Panel notes that, according to the evidence provided by the Complainant, the Respondent’s use of the disputed domain names has contributed to the affiliation and risk of confusion including the Complainant’s trademarks at the headings of the websites formerly linked to the disputed domain names, using a similar combination of colors to the one used in the Complainant’s MINICHAT platform official website, and being referred to the same type of business. These websites further provided various links to competitors of the Complainant in the social networking services business.

All these circumstances impede to consider the Respondent’s use of the disputed domain names as a *bona fide* offering under the Policy. The inclusion of a disclaimer on the website linked to the second disputed domain name, placed at the bottom of its homepage, is not sufficiently prominent and does not avoid the confusion and/or affiliation, so it does not alter this conclusion.

It is further remarkable regarding the Respondent’s reaction to the Complaint. In this respect, at the time of drafting this decision, the Panel notes that both disputed domain names are redirected to websites under different domain names (<chatroulettea.chat> and <ftfchat.com>) that still provide the same services competing with the Complainant, and still include links to other competing websites in the same social networking business. Instead of providing any explanation and/or evidence of any rights or legitimate interests in the disputed domain names, the Respondent has continued with its competing business using the disputed domain names to increase the traffic of its platforms or third parties’ platforms in the same social networking business. This course of action cannot confer rights or legitimate interests to the Respondent.

All these circumstances 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 names, 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 names have been registered and are 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’s platforms over the Internet. Any search over the Internet reveals the Complainant’s social networking platforms. The Panel considers that this last circumstance together with (i) the composition of the disputed domain names (being the first disputed domain name identical to the MINICHAT mark, and the second disputed domain name being an obvious misspelling of the OMETV mark); and (ii) the former use of the disputed domain names (to resolve to websites that included the Complainant’s trademarks, used a similar combination of colors and look and feel to one of the Complainant’s websites, and were referred to the same type of services, are sufficient to consider that the Respondent targeted the Complainant’s trademarks in bad faith when registering the disputed domain names.

The Panel further finds that the Respondent's bad faith is corroborated by a pattern of targeting the Complainant's trademarks, not only in the two disputed domain names, but also in another prior UDRP case referred to the domain name <ometv.tv>, subject of *Bad Kitty's Dad, LD v. Abbigail Abril, supra*, which has already been decided with the transfer of the domain name to the Complainant.

It is further to be noted that, taking into account all the circumstances of this case, the inclusion of a disclaimer in the website linked to the second disputed domain name, cannot cure the implied affiliation and risk of confusion generated by the said disputed domain name and the rest of the content of this site. See section 3.7, [WIPO Overview 3.0](#).

As already noted, the Respondent's lack of reaction to the Complaint is further evidence of bad faith.

Therefore, on the balance of probabilities, taking into consideration all cumulative circumstances of this case, the Panel considers that the disputed domain names were registered and have been used targeting the Complainant's trademarks in bad faith, in an effort to take unfair advantage of these marks by creating a false affiliation to the Complainant's social networking platforms, for commercial gain, to increase the Internet traffic of the Respondent's websites, which constitutes bad faith under the Policy.

All of the above-mentioned circumstances lead the Panel to conclude that the disputed domain names were registered and are 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 names 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 names, <minichat.chat> and <omtv.tv>, be transferred to the Complainant.

*/Reyes Campello Estebaranz/*

**Reyes Campello Estebaranz**

Sole Panelist

Date: August 14, 2023