

## **ADMINISTRATIVE PANEL DECISION**

GreatSchools, Inc. v. Robert Marley  
Case No. D2023-3465

### **1. The Parties**

Complainant is GreatSchools, Inc., United States (“US”), represented by Orrick, Herrington & Sutcliffe, LLP, US.

Respondent is Robert Marley, US.

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

The disputed domain name <greatschoolsinitiative.org> (“Domain Name”) is registered with Tucows Inc. (“Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (“Center”) on August 15, 2023. On August 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 15, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent (Contact Privacy Inc. Customer 0165142742) and contact information in the Complaint. The Center sent an email communication to Complainant on August 17, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on August 18, 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 Respondent of the Complaint, and the proceedings commenced on August 22, 2023. On September 6, 2023, a third-party named Pawl emailed the Center and requested copies of the Complaint and annexes. The email from Pawl indicated an association with “Great Schools Initiative.” Pawl sent a second email on September 10, 2023. On September 11, 2023, the Center requested that Pawl clarify the relationship with Respondent. On September 11, 2023, Pawl responded with evidence, including articles of incorporation filed in the state of Michigan for a non-profit organization called Great Schools Initiative, and with Pawl identified as president

and on the board of directors. Pawl stated that Respondent, Robert Marely, is “subordinate to me.” On September 18, 2023, the Center provided Pawl with the requested Complaint and annexes. In accordance with the Rules, paragraph 5, the due date for Response was September 11, 2023. Respondent did not submit any formal response. Accordingly, the Center notified Respondent of the Commencement of Panel Appointment Process on September 21, 2023. On September 21, 2023, Pawl submitted a request for an extension of the Response due date. On September 25, 2023, the Center confirmed receipt of the request and noted that it would be submitted to the Panel for their consideration.

The Center appointed Christopher S. Gibson as the sole panelist in this matter on September 26, 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.

In response to the request for an extension, on October 18, 2023, the Panel in Procedural Order No. 1 provided Respondent until October 25, 2023, to provide its response to Complainant’s contentions. Respondent did not submit a response.

#### **4. Factual Background**

Complainant is a national nonprofit organization founded in 1998 as a school directory and parenting resource in Northern California. Over the next years, Complainant increased the amount of information it provided to parents, and eventually grew the geographic scope of its services to where it had expanded nationwide by 2003. Today, Complainant is recognized as a leading non-profit provider of high-quality information that supports parents pursuing excellent education for their children, schools striving for excellence, and communities working to diminish inequities in education. Every year, nearly 50 million users visit Complainant’s award-winning website to learn about schools in their area, explore research insights, and access thousands of free, evidence-based parenting resources to support children’s learning and well-being.

Complainant owns the intellectual property rights for the GREATSCHOOLS name and trademark in the US. Complainant has also registered the domain name <greatschools.org>, which is used for Complainant’s nationally-known primary and secondary school ratings website, providing informational services in the field of schools and education.

In order to protect its brand name, trademark, and reputation, Complainant has obtained registrations for the GREATSCHOOLS trademark in multiple countries and jurisdictions. Currently, Complainant holds two active registrations for GREATSCHOOLS in the US (US Registrations Nos. 2286807 and 3302022 registered on October 12, 1999 and October 2, 2007, respectively), and another active registration for its design mark in Canada (Canada Reg. No. TMA858655 registered on August 27, 2013).



Complainant filed its first service mark application for GREATSCHOOLS in the US on February 4, 1998 for “providing information in the field of schools and education by means of a global communication network.” In addition, Complainant owns and has been using the domain names <greatschools.com>, <greatschools.net>, and <greatschools.org> in connection with its services for more than 20 years. The Panel observes that the domain names <greatschools.com> and <greatschools.net> redirect to Complainant’s website at <greatschools.org.” The GREATSCHOOLS mark is the subject of extensive use and advertising by Complainant. Complainant has spent substantial amounts of time and money promoting its services associated with the GREATSCHOOLS mark in the US.

Respondent registered the Domain Name on September 2, 2022. Respondent’s identity was maintained as private and the identified registrant for the Domain Name was “Contact Privacy Inc. Customer 0165142742.”

Following the filing of the Complaint, Respondent was identified as Robert Marley. The Domain Name currently resolves to a website providing information about the “Great Schools Initiative,” which is described as a non-profit organization based in Michigan with a stated goal of “[t]ransform[ing] public schools through high impact community engagement projects designed to produce orthodox education.” Among other things, Respondent has used the Domain Name to raise money and promote an initiative encouraging parents of primary and secondary school students to opt their children out of “rogue sex ed” in public schools.

Complainant became aware of the use of GREATSCHOOLS trademark in the Domain Name in late September 2022 when confused members of the public began reaching out to Complainant to confirm whether Complainant was affiliated with Respondent. Complainant’s counsel emailed Respondent on October 19, 2022 in an effort to resolve the matter, and Respondent’s counsel replied by letter the following month. However, after sending its reply letter, Respondent and Respondent’s counsel went silent, refusing to answer the phone, and never responding to Complainant’s counsel’s repeated emails and voicemail messages requesting further discussion.

## **5. Parties’ Contentions**

### **A. Complainant**

#### **(i) Identical or confusingly similar**

Complainant contends its trademark registrations are *prima facie* evidence of the GREATSCHOOLS mark’s validity, which creates a rebuttable presumption that the mark is distinctive and shifts the burden to Respondent to refute this assumption. Furthermore, Complainant states its US registrations enjoy incontestable status under section 15 of the US Trademark Act (15 U.S.C. § 1065) and thus are conclusive evidence of the mark’s validity and of Complainant’s ownership and exclusive right to use the GREATSCHOOLS mark, and any similar derivations of it.

Complainant claims that Respondent’s unauthorized use of Complainant’s GREATSCHOOLS trademark as part of the Domain Name has led to multiple instances of actual consumer confusion and resulting damage to Complainant’s carefully cultivated reputation. As the existence of the Domain Name is likely to cause confusion and harm to Complainant’s business and trademark rights, and indeed, has already done so, Complainant requests that the Panel transfer the Domain Name to Complainant to avoid further consumer confusion and infringement of its trademark rights.

Complainant contends the Domain Name is confusingly similar to, and wholly incorporates, Complainant’s registered GREATSCHOOLS mark, and Complainant’s active domain name, <greatschools.org>. Complainant has rights in its GREATSCHOOLS trademark, as evidenced by the service mark registrations, and Complainant’s extensive and long-continuing use of the GREATSCHOOLS mark. Moreover, Complainant states the federal registration of its GREATSCHOOLS mark establishes its rights in its mark under the Policy, paragraph 4(a)(i).

Complainant submits that the fact Respondent’s Domain Name wholly incorporates Complainant’s registered GREATSCHOOLS mark and <greatschools.org> domain name demonstrates that it is confusingly similar to Complainant’s mark. Use of the generic word “initiative” does nothing to distinguish the Domain Name from Complainant’s GREATSCHOOLS mark. Moreover, Complainant says it is noteworthy that Respondent registered the Domain Name with the “.org” generic top-level domain (“gTLD”), instead of the more popular “.com” gTLD, presumably for purposes of making the Domain Name even more similar to Complainant’s well-known website located at the <greatschools.org> domain name. The use of the “.org” gTLD increases the likelihood of confusion as consumers seeking Complainant’s online platform and services might accidentally be directed to Respondent’s website instead. Internet users will reasonably but incorrectly expect Respondent’s Domain Name to refer to Complainant’s platform and services and assume the two are the same or at least related.

Complainant states it has already been contacted by multiple consumers or members of the public inquiring about the perceived connection between Complainant and Respondent. For example, on September 28, 2022, Twitter user @Mom4Truth shared an image of the Great Schools Initiative logo and asked “@GreatSchools [Complainant] are you affiliated with this organization?” A January 2022 Twitter thread shows that user @bwaydiva1 confused Respondent’s political views for those of Complainant. More specifically, a Twitter user posted a link to an article about transgender students in schools. Another user responded and noted that Respondent was “involved in this topic at our schools,” and provided a link to Respondent’s website. User @bwaydiva1 responded by asking “That’s why schools in heavily LGBTQ areas aren’t rated as well??” clearly believing that Complainant, who rates the quality of local schools, was the same entity as Respondent, known for its particular viewpoints. Again, in January 2023, Twitter user @MichelleWhisks tagged Complainant asking “@GreatSchools are you aware of this group with a name very similar to yours, Great Schools Initiative?”

Complainant submitted evidence that media outlets have confused Respondent for Complainant, and in at least one instance, mistakenly included a hyperlink to Complainant’s website in an article that had nothing to do with Complainant, but instead was about Respondent. Notably, that article was syndicated to at least seven other publications, amplifying the confusion between Complainant and Respondent. A reporter from another media outlet, the Michigan Advance, contacted Complainant on January 31, 2023, asking whether Complainant was connected to Respondent. This reporter noted that the incorporator of Respondent has the same name as a former CEO of Complainant, saying “this has been incredibly confusing.”

Accordingly, Complainant contends that given these facts, there is no question that Respondent’s Domain Name is confusingly similar to a trademark or service mark in which Complainant has rights, as per paragraph 4(a)(i) of the Policy, and that Respondent’s registration and ongoing use of the Domain Name is likely to cause consumer confusion.

(ii) Rights or legitimate interests

Complainant contends that Respondent should also be considered to have no rights or legitimate interests in respect of the Domain Name. Complainant has not authorized Respondent to use its GREATSCHOOLS mark, and Respondent is not a licensee or authorized provider of Complainant’s platform or services. On information and belief, Complainant states Respondent is also not commonly known by the Domain Name within the meaning of paragraph 4(c)(ii) of the Policy. Rather, the Domain Name is likely to be understood by consumers to refer to Complainant’s own online educational platform available at <greatschools.org>.

Complainant maintains that Respondent’s registering the Domain Name, which incorporates Complainant’s trademark, and using the Domain Name to raise money in the same field as the registered mark owner – in this case, the field of primary and secondary school education – and in a manner certain to lead to consumer confusion, and continuing to do so without any modification after being notified of incidents of actual consumer confusion does not constitute a *bona fide* offering of goods or services.

Given that (i) Respondent is not using, and has not used, the Domain Name in connection with a bona fide offering of goods or services, (ii) Respondent is not known by the GREATSCHOOLS name and is not authorized to use Complainant’s mark, and (iii) Respondent is not making a legitimate noncommercial or fair use of the Domain Name, Respondent clearly has no rights or legitimate interests in the Domain Name, as defined in paragraphs 4(c)(i)-(iii) of the Policy.

(iii) Registered and used in bad faith

Complainant contends that Respondent registered and is using the Domain Name in bad faith, in that Respondent is undoubtedly aware of Complainant and intentionally attempting to attract Internet users to its website by creating a likelihood of confusion with Complainant’s mark.

Complainant emphasizes it first adopted and used the GREATSCHOOLS mark more than two decades ago in 1998, long before Respondent registered the Domain Name in 2022. By providing information and promoting its various causes in the same field, i.e., the field of primary and secondary school education, under an identical or confusingly similar mark, Respondent is trying to benefit from consumer confusion and a perceived association between the Domain Name and Complainant's domain name <greatschools.org>.

Moreover, Complainant has expressly notified both Respondent and Respondent's counsel about Complainant's prior rights in its GREATSCHOOLS mark, yet Respondent has cut off all communication with Complainant and continued using the Domain Name. Such use shows that Respondent has not only constructive, but also actual knowledge of Complainant's rights in the GREATSCHOOLS mark. The fact that Respondent registered and is using the Domain Name with both constructive and actual knowledge of Complainant's prior trademark rights is sufficient to establish that the Domain Name was registered and is being used in bad faith. In particular, Complainant contends that registering a name that the registrant knows belongs to someone else and that the registrant knows will confuse the users about the source or sponsorship of the domain name is bad faith.

Thus, Complainant concludes the evidence shows that Respondent registered and is using the Domain Name in bad faith. Accordingly, transfer of the Domain Name to Complainant is warranted so as to end Respondent's trademark infringement of the GREATSCHOOLS mark and resulting consumer confusion.

## **B. Respondent**

Despite the Panel providing a requested extension, Respondent did not reply to Complainant's contentions, nor did the third-party, Mr. Pawl, who had intervened in this case and indicated he was the president of an organization known as Great Schools Initiative, which apparently somehow controls Respondent.

## **6. Discussion and Findings**

In order to succeed on its Complaint, Complainant must demonstrate that the three elements set forth in paragraph 4(a) of the Policy have been satisfied. Those elements are as follows:

- (i) the Domain Name registered by Respondent 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 Domain Name; and
- (iii) Respondent has registered and is using the Domain Name in bad faith.

### **A. Identical or Confusingly Similar**

The Panel finds that Complainant has demonstrated well-established rights in its GREATSCHOOLS trademark, both through registration and widespread use of the mark for over 25 years, including use of the domain names <greatschools.com>, <greatschools.net>, and <greatschools.org>.

Further, the Panel finds that the Domain Name incorporates the GREATSCHOOLS mark in its entirety, while adding the word "initiative." The addition of such term does not prevent a finding of confusing similarity in this case. Numerous decisions make UDRP jurisprudence clear on this point – that the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7 ("where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing"); see also *WhatsApp Inc. v. Moose Scheib*, WIPO Case No. [D2019-0541](#); *Bayerische Motoren Werke AG v. bmwcar.com*, WIPO Case No. [D2002-0615](#) (when a domain wholly incorporates the registered mark at issue, "that is sufficient to establish confusing similarity for purposes of the Policy").

Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

Regarding the second element of the Policy, section 2.1 of the [WIPO Overview 3.0](#) states, “where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”.

Here, the Panel determines that Complainant has made out a prima facie case, while Respondent has failed to respond to Complainant’s contentions. Complainant has stated that it did not authorize Respondent to use Complainant’s GREATSCHOOLS mark in the Domain Name. Complainant also contends that Respondent is not commonly known by the Domain Name. Respondent is named Robert Marley; however, Mr. Pawl of the Great Schools Initiative has claimed, without further explanation, that Robert Marley is “subordinate to me.” Even if that is the case, Complainant has contended that Respondent is not commonly known by the Domain Name within the meaning of paragraph 4(c)(ii) of the Policy because the Domain Name is likely to be understood by consumers to refer to Complainant’s own online educational platform available at <greatschools.org>. Further, Complainant maintains that Respondent is not using the Domain Name in connection with a *bona fide* offering of goods or service because the Domain Name incorporates Complainant’s GREATSCHOOLS trademark in its entirety, and Respondent is using the Domain Name to raise money in the same field as the registered mark owner, that is, the field of primary and secondary school education, in a manner that leads to consumer confusion. Moreover, Respondent has continued to do so without any modification after being notified by Complainant of incidents of actual consumer confusion. Complainant has also alleged that Respondent is not making a legitimate noncommercial or fair use of the Domain Name.

In the face of these allegations, Respondent has failed to provide a Response, even after the Panel provided a requested extension for Respondent to do so. The Panel has visited the website linked to the Domain Name. The Panel could find no disclaimer, or any information whatsoever to distinguish the activities of Respondent from those of Complainant, on the site. Moreover, as Complainant has alleged, the website is also being used to raise money, again without any effort to distinguish the website from Complainant and its GREATSCHOOLS trademark. Under these circumstances, and in view of the evidence of confusion submitted by Complainant, and Respondent’s failure to respond to Complainant, the Panel cannot find that Respondent is using the Domain Name in connection with a bona fide offering of goods or services, or otherwise 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. See Policy, paragraphs 4(c)(i) and (iii); see also [WIPO Overview 3.0](#), section 2.5.1 (“Even where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner.”).

The Panel is aware that on a superficial level there may be a descriptive element to Complainant’s mark, but given that Complainant has been active for some 25 years, and moreover, given that its mark has reached uncontestable statutory status, the Panel does not consider it to be a coincidence that Respondent has chosen the Domain Name (nor that this was done so merely because of any descriptive qualities it may have), but rather that such choice was intended to unfairly capitalize on confusion created by the use of a confusingly similar domain name.

Accordingly, the Panel finds that Complainant has made a prima facie showing of Respondent’s lack of rights or legitimate interests in respect of the Domain Name, which has not been rebutted by Respondent. The Panel therefore finds that Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

### C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that Complainant demonstrate that Respondent registered and is using the Domain Name in bad faith. [WIPO Overview 3.0](#), section 3.1, states, “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”.

Here, the Panel determines that the Domain Name was registered and is being used in bad faith. First, given that Respondent (and/or the website to which the Domain Name is linked) operates in both the same field as Complainant (i.e., primary and secondary school education) and the same geographic region (i.e., the US), and that the Domain Name – which contains the entirety of Complainant’s GREATSCHOOLS mark (plus the word “initiative” which in the circumstances seems to be deliberately designed to confuse) – was registered more than 20 years *after* Complainant registered and began using its GREATSCHOOLS trademarks, the Panel determines, on the balance of the probabilities, that Respondent was likely aware of Complainant’s GREATSCHOOLS trademark and targeted that mark to unfairly capitalize on its reputation, when registered the Domain Name. Respondent has had the opportunity to explain why it registered the Domain Name, and to deny Complainant’s allegations in this regard, but failed to do so.

Moreover, the Panel finds that the Domain Name is being used in bad faith, as it is being used either to disrupt Complainant’s business and/or to intentionally attempt to attract, for Respondent’s gain, Internet users to the website linked to the Domain Name by creating a likelihood of confusion with Complainant’s GREATSCHOOLS mark as to the source, sponsorship, affiliation, or endorsement of the website linked to the Domain Name. Complainant has submitted evidence that it has used its GREATSCHOOLS mark in the US for many years before the Domain Name was registered, and Complainant had established its reputation in the same field where the website linked to the Domain Name was posted sometime in September 2022. See e.g., [WIPO Overview 3.0](#), section 3.1.4 (“Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.”). Moreover, Complainant has also submitted evidence of actual confusion and damage to its reputation, commencing almost immediately after the website linked to the Domain Name was posted, as well as evidence that Respondent ignored Complainant’s prior attempts to address these issues and resolve this matter. In this case, moreover, Respondent (and Mr. Pawl as the putative president of the Great Schools Initiative) has made no attempt to respond to Complainant’s allegations on these and other points, or to otherwise justify use of the Domain Name.

In conclusions, the Panel determines, on the balance of the probabilities and for all of the above reasons, that the Domain Name was registered and is being used in bad faith. Accordingly, Complainant has satisfied 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 Domain Name, <greatschoolsinitiative.org>, be transferred to Complainant.

*/Christopher S. Gibson/*

**Christopher S. Gibson**

Sole Panelist

Date: November 17, 2023