

ADMINISTRATIVE PANEL DECISION

Marathon Digital Holdings, Inc. v. Marathon Holdings
Case No. D2024-0487

1. The Parties

The Complainant is Marathon Digital Holdings, Inc., United States of America (“United States”), represented by Warsaw Burstein LLP, United States.

The Respondent is Marathon Holdings, United States.

2. The Domain Name and Registrar

The disputed domain name <marathondigitalholdings.org> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 1, 2024. On February 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 5, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 5, 2024, 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 February 5, 2024.

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 February 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 28, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on March 4, 2024. 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 cryptocurrency technology company organized as a corporation under the laws of the State of Nevada, United States, with a principal place of business in Fort Lauderdale, Florida, United States. The Complainant was first established in February 2021 as a subsidiary of Marathon Patent Group, which had been engaged in Bitcoin mining and related activities since 2012. Following a merger later that month, the Complainant became the successor to Marathon Patent Group's assets including trademarks. The Complainant is a publicly owned company, with shares traded on the NASDAQ stock exchange. The Complainant operates the MaraPool, a Bitcoin mining pool that aims to reduce the environmental impact of Bitcoin mining.

The Complainant operates a website at "www.mara.com" headed "Marathon Digital Holdings" (the "Complainant's corporate website"). The Complainant's predecessor registered <marathondh.com> on October 29, 2020, and the Complainant attaches a screenshot of the website associated with that domain name on March 2, 2021 (the "former Marathon corporate website"), active at the time the disputed domain name was registered. The domain name <marathondh.com> now redirects to the Complainant's corporate website at "www.mara.com". The Complainant also formerly operated a website describing the MaraPool at "www.marapool.com". This was also active at the time the disputed domain name was registered, as shown in a October 4, 2021, screenshot attached to the Complaint.

The Complainant holds a number of trademark registrations in various jurisdictions and also claims common law rights in MARATHON DIGITAL HOLDINGS, a MARATHON DIGITAL HOLDINGS logo featuring those words, the marks MARATHON, MARA, MARA POOL, MARAPOOL, and a MARAPOOL logo. Trademark registrations particularly relevant to this proceeding include the following:

Mark	Jurisdiction	Registration Number	Registration Date	Goods or Services
MARATHON DIGITAL HOLDINGS (word)	International Trademark (designations for Canada, China, European Union, Japan, United Kingdom, Australia, Kenya, Korea (Republic of), Malaysia, and Russian Federation)	1611535	July 1, 2021	Cryptocurrency mining, computer services; IC 36, 42
MARATHON DIGITAL HOLDINGS (word)	United States	6861977	October 4, 2022 (claiming first use in commerce January 2021)	Providing information about cryptocurrency mining; online computer software for pooled cryptocurrency mining; IC 36, 42

MARATHON (word)	United States	6861995	October 4, 2022 (claiming first use in commerce November 2017)	Providing information about cryptocurrency mining; online computer software for pooled cryptocurrency mining; IC 36, 42
MARATHON DIGITAL HOLDINGS (words and design with bitcoin symbol)	United States	6861976	October 4, 2022 (claiming first use in commerce January 2021)	Providing information about cryptocurrency mining; online computer software for pooled cryptocurrency mining; IC 36, 42
MARA (word)	International Trademark (multiple designations, including Australia)	1688788	September 14, 2022	Pooled cryptocurrency mining services; IC 42

The disputed domain name was created on December 22, 2021, and is registered in the name of the Respondent Marathon Holdings. The registration details are incomplete, giving no proper street address or city but simply listing in three places the name or postal abbreviation for the State of Arizona, United States, as well as furnishing a Gmail contact email address.

The disputed domain name resolves to a website (the “Respondent’s website”) published in English, Hindi, and Spanish. The website is headed with a copy of the Complainant’s trademarked logo that displays the Complainant’s name “Marathon Digital Holdings” in stylized letters with a figurative design including the bitcoin symbol. This is the same logo that appeared on the Complainant’s website in 2021 when the Respondent registered the disputed domain name. The Respondent’s website includes a chat feature and invites visitors to invest in cryptocurrencies through the website, by providing their personal and payment details and acquiring a Mastercard with a “minimum balance” of USD 3000. The website offers plans for investments from USD 100 to USD 20,000, promising daily returns that appear differently at various places on the website but range from 6% to 20%.

The website claims that the Respondent is a registered company in England and Wales called “Marathon Digital Holdings Mining Company”. The Panel notes that no entity by that name appears in the online database of Companies House, the official United Kingdom agency that incorporates and dissolves limited companies and makes their information public. The Respondent’s website has classic earmarks of fraud. The home page is filled with large numbers in United States dollars accompanied by meaningless, improbable, and ungrammatical phrases such as “Profit for Every Day Yes”, “Capital will back Yes”, “20% Every Day”. The “About Us” page touts “Expert Management”, but the “Experts” are portrayed in stock photos with no names, labelled only with titles such as “Account Manager”. Under the heading “Registered Company”, the website gives a street address in London, a United Kingdom company number and VAT registration number, and a data protection registration number. However, the Panel notes that this is the address, and these are the registration details, for the *Financial Times*, as shown in the online databases of the respective United Kingdom authorities. The supposed client “testimonials” displayed on the Respondent’s website are also clearly fabricated. They all consist of the same incomplete and nonsensical text (a portion of it reads as, “create Change that Matters Welcome fat who window extent ...”), ascribed to various “web developers”, a “team hunter”, and a “think tank”. These repeated quotations are accompanied by either photos or a drawing, sometimes mixing names and genders and using the same photo with different names, as well as employing celebrity names such as Donald Trump and Tom Latham.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name is confusingly similar to its MARATHON DIGITAL HOLDINGS, MARATHON, and MARA marks. The Complainant asserts that the Respondent has no permission to use those marks, is not known by a corresponding name, and uses the disputed domain name only for a website emulating the Complainant, misleadingly displaying the Complainant's trademarked logo. This conduct reflects bad faith as well as the Respondent's lack of rights or legitimate interests.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

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

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

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 the 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 Complainant has shown rights in respect of the registered MARATHON DIGITAL HOLDINGS, MARATHON, and MARA trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of these marks is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to each of the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the

respondent. As such, 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, panels have held that the use of a domain name in connection with phishing, fraud, and other illicit activities, as appears to be the case here, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent was clearly aware of the Complainant's marks, as the Respondent's website was headed with the Complainant's trademarked logo and advertised services in the Complainant's industry. The Respondent's conduct accords with the example of bad faith given in the Policy, paragraph 4(b)(iv): an intentional attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's marks.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances also may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity such as phishing or fraud, as appears to be the case here (as detailed above) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established 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 <marathondigitalholdings.org> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: March 20, 2024.