

ADMINISTRATIVE PANEL DECISION

Mav Media, LLC v. Mark Stone
Case No. D2024-0744

1. The Parties

Complainant is Mav Media, LLC, United States of America (“United States”), represented by Corey D. Silverstein, United States.

Respondent is Mark Stone, United States.

2. The Domain Names and Registrar

The disputed domain names <dirtyroulette.club> <dirtyroulette.one> <dirtyroulette.site> <dirtyroulette.vip> <flingster.club> and <flingster.online> are registered with NameCheap, Inc.(the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 18, 2024. On February 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 19, 2024, 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 (Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on February 21, 2024 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 February 21, 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 Respondent of the Complaint, and the proceedings commenced on February 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 18, 2024.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on March 25, 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

Complainant, Mav Media LLC, is a multimedia company based in the United States. Complainant operates several adult oriented video chat sites, including websites at <dirtyroulette.com> and <flingster.com>, that offer free adult video, text and webcam chat on the Internet. Complainant owns several trademark registrations for the marks DIRTY ROULETTE and FLINGSTER in connection with Complainant's services. These include, inter alia, (i) a United States registration for DIRTY ROULETTE (Registration No. 5,109,884) that issued to registration on December 27, 2016 and was assigned to Complainant on December 10, 2020, (ii) a United States registration for FLINGSTER (Registration Nos. 5,235,295) that issued to registration on July 4, 2017 and was also assigned to Complainant on December 10, 2020, and (iii) a United States registration for FLINGSTER (Registration No. 6,399,683) that issued to registration on June 29, 2021 and which was assigned to Complainant while still a pending application on December 10, 2020.

Respondent appears to be based in the United States. The <dirtyroulette.club> disputed domain name was registered on January 15, 2024 and the remaining disputed domain names were all registered on October 26, 2022. At some point after registering the disputed domain names, Respondent use such for websites that provide free adult video, text and webcam chat for random encounters. Currently, the disputed domain names continue to resolve to websites offering these services.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that its websites at <dirtyroulette.com> and <flingster.com> and free adult video chat services are well-known to the relevant consumers. Complainant further argues that the disputed domain names solely consist of Complainant's exact DIRTY ROULETTE or FLINGSTER marks and are being used by Respondent to offer the same services as those offered by Complainant under its DIRTY ROULETTE and FLINGSTER marks. Complainant argues that such actions by Respondent establish that Respondent does not have any legitimate interests or rights in the disputed domain names and has registered and used the disputed domain names in bad faith.

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 names are 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 names; and

(iii) the disputed domain names have been registered and are being used in bad faith.

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 names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Here, Complainant has shown rights in respect of its DIRTY ROULETTE and FLINGSTER trademarks for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Given that the disputed domain names fully and solely consist of Complainant's DIRTY ROULETTE or FLINGSTER marks, the disputed domain names are identical to Complainant's marks for 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Respondent has registered disputed domain names that on their face carry a high likelihood on implied affiliation with or connection to Complainant. Heightening that implied affiliation is the use of the disputed domain names to offer the very same, or closely similar, services as those offered by Complainant through its "www.dirtyroulette.com" and "www.flingster.com" websites. Indeed, Respondent's websites include language and descriptions that on their face conjure up Complainant and its DIRTY ROULETTE and FLINGSTER services.

To be sure, such actions by Respondent, who has chosen not to appear in this action, are not legitimate or a fair use, particularly where, as here, the disputed domain names and associated websites essentially impersonate Complainant. [WIPO Overview 3.0](#) at Section 2.5. The Panel thus finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for 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 instant case, in view of Respondent's actions as noted above, the Panel finds that Respondent has more likely than not registered and used the disputed domain names in bad faith pursuant to paragraph 4(b) of the Policy.

Here, Respondent has registered and used the disputed domain names, that on their face suggest a connection or affiliation with Complainant and its DIRTY ROULETTE and FLINGSTER marks for websites that basically offer the identical services offered by Complainant. As Respondent's websites not only prominently use the DIRTY ROULETTE and FLINGSTER marks with descriptions that reinforce a connection to Complainant, it is easy to infer that Respondent's registration and use of the disputed domain names was done opportunistically and in bad faith to take advantage of Complainant's rights in its DIRTY ROULETTE and FLINGSTER marks for Respondent's profit.

The Panel thus finds that 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 names <dirtyroulette.club>, <dirtyroulette.one>, <dirtyroulette.site>, <dirtyroulette.vip>, <flingster.club>, and <flingster.online> be transferred to Complainant.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: April 10, 2024