

ADMINISTRATIVE PANEL DECISION

MUITAS LTD v. AMF AMF

Case No. D2024-1110

1. The Parties

Complainant is MUITAS LTD, United States of America (“U.S.” or “United States”), represented by Silverstein Legal, U.S.

Respondent is AMF AMF, U.S.

2. The Domain Names and Registrar

The disputed domain names <clipw4sale.com> and <clipx4sale.com> (the “Domain Names”) are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 13, 2024. On March 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On the same March 14, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint.

The Center sent an email communication to Complainant on March 18, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on March 18, 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 March 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 15, 2024.

The Center appointed John C. McElwaine as the sole panelist in this matter on April 19, 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 is the operator of a platform that sells adult entertainment content. Relevant to this matter, Complainant owns a trademark registration for CLIPS4SALE, U.S. Reg. No. 7,103,167, registered on July 11, 2023 in Classes 41 and 42 (the "CLIPS4SALE Mark"). This registration was achieved under Section 2(f) of the Lanham Act meaning that Complainant established acquired distinctiveness in the CLIPS4SALE Mark. Such acquired distinctiveness was achieved prior to registration of the Domain Names.

On January 23, 2024, Respondent registered the Domain Names. At the time of filing the Complaint, the Domain Names redirected to <ashleykade.ai>, which offers adult entertainment content in direct competition with Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Names.

Specifically, as background, Complainant alleges that it owns and operates the website "www.clips4sale.com", which has functioned as a platform for users to sell audiovisual adult entertainment content for over two decades. Complainant asserts it owns a United States trademark for the CLIPS4SALE Mark. Beyond its registered trademark, Complainant claims extensive common law rights in the CLIPS4SALE Mark globally, originating as early as July 21, 2003. In addition, Complainant's platform is alleged to be one of the leading online marketplaces for adult entertainment content, receiving significant web traffic, which underscores its widespread recognition and popularity.

With respect to the first element of the Policy, Complainant asserts that Respondent registered the Domain Names which are misspellings of and confusingly similar to its CLIP4SALE Mark. Specifically, the Domain Names merely replace the letter "s" in "clips" with adjacent keyboard letters, namely, "w" and "x", which does not significantly differentiate the Domain Names from Complainant's CLIP4SALE Mark.

With respect to the second element of the Policy, Complainant contends that Respondent is not a licensee nor authorized to use Complainant's CLIP4SALE Mark. Complainant also alleges that Respondent is not commonly known by the name CLIPS4SALE. Complainant asserts that Respondent is currently redirecting the Domain Names to a website offering adult entertainment content via artificial intelligence, directly competing with Complainant's services. Complainant further asserts that this use is considered neither bona fide nor legitimate but rather an exploitation of Complainant's established market presence.

With respect to the third element of the Policy, Complainant contends that the mere registration of the Domain Names, which are confusingly similar to Complainant's famous trademarks, itself constitutes bad faith. This is reinforced by Respondent's use of the Domain Names to redirect to competing services, which Complainant asserts is clearly intended to capitalize on Complainant's reputation, thereby misleading consumers. In addition, Complainant asserts that Respondent's registration and use of typosquatting domain names is evidence of bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions

6. Discussion and Findings

Even though Respondent has defaulted, paragraph 4 of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove its assertions with evidence demonstrating:

- (i) the 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 each Domain Name; and
- (iii) the Domain Names have been registered and are being used in bad faith.

Because of Respondent's default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); and *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules and applicable principles of law, the Panel's findings on each of the above cited elements are as follows.

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 Complainant's trademark and the Domain Names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7. 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. WIPO Overview, section 1.2. On this point, Complainant has provided evidence that it is the owner of a trademark registration for the CLIPS4SALE Mark. The Panel also finds the mark is recognizable within both Domain Names and that they contain misspellings or typos of Complainant's CLIPS4SALE Mark. In this regard, the Panel notes that the first letter "s" of Complainant's CLIP4SALE Mark is replaced within the Domain Names by letters "w" and "x" (which are adjacent to the letter "s" in a Qwerty keyboard). Accordingly, the Domain Names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

The Panel finds that the Domain Names are confusingly similar to Complainant's CLIPS4SALE Mark in which Complainant has valid trademark rights. Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

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.

In this matter, Complainant contends that Respondent is not licensed or authorized to register the Domain Names, nor does Respondent have any affiliation, association or connection with Complainant. Rather, Complainant contends Respondent redirected both Domain Names to a website that sold competing adult entertainment services and that this use is infringing and not legitimate. Although properly notified by the Center, Respondent failed to submit any response to counter this point. The silence of a respondent may support a finding that it has no rights or legitimate interests in respect of the domain name. See *Alcoholics Anonymous World Services, Inc., v. Lauren Raymond*, WIPO Case No. [D2000-0007](#); *Ronson Plc v. Unimetal Sanayi ve Tic.A.S.*, WIPO Case No. [D2000-0011](#). Additionally, previous UDRP panels have found that when respondents have not availed themselves of their rights to respond to complaint, it can be assumed in appropriate circumstances that respondents have no rights or legitimate interests in the disputed domain name. See *AREVA v. St. James Robyn*, WIPO Case No. [D2010-1017](#); *Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#).

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the 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 Domain Names such as those enumerated in the Policy¹ or otherwise.

As an initial matter, there is no evidence that Respondent is commonly known by the Domain Names and may, instead, possibly be known as AMF. The Panel therefore finds, based on the record and the lack of evidence otherwise, that Respondent is not commonly known by the Domain Names. See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#) (“the Panel notes that the respondent’s name is “Bestinfo” and that it can therefore not be “commonly known by the Domain Name.”)

Moreover, the use of the Domain Names, which are typographical errors of Complainant's CLIPS4SALE Mark, to redirect to a website that sells competing adult entertainment services does not demonstrate rights or a legitimate interest. [WIPO Overview 3.0](#), section 2.5.3 (“a respondent's use of a complainant's mark to redirect users (e.g., to a competing site) would not support a claim to rights or legitimate interests”).

Lastly, Respondent's use of the Domain Names is not noncommercial or fair use under paragraph 4(c)(iii) of the Policy, given that Respondent is selling competing products from its website. Such activity does not amount to a fan site, criticism, or other activity that may be considered noncommercial or fair use.

The Panel finds that Respondent does not have rights or legitimate interests in the Domain Names and that Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Names in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Bad faith registration can be found where a respondent “knew or should have known” of a complainant's trademark rights and nevertheless registered a domain name in which it had no right or legitimate interest. See *Accor v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). As detailed above, Respondent registered the Domain Names which are confusingly similar to the CLIPS4SALE Mark. There is no explanation for Respondent to have chosen to register the Domain Names other than to intentionally trade off the goodwill

¹ The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name: “(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or (iii) you are 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.”

and reputation of Complainant's trademark or otherwise create a false association with Complainant. With no response from Respondent, this claim is undisputed.

In addition, it is well settled that the practice of typosquatting constitutes obvious evidence of the bad faith registration of a domain name. See, *Admiral Group Plc and EUI Limited v. Cimpres Schweiz, Cimpres Schweiz GmbH*, WIPO Case No. [DCO2017-0043](#) (citing *Longs Drug Stores California, Inc. v. Shep Dog*, WIPO Case No. [D2004-1069](#) (finding typosquatting to be evidence of bad faith domain name registration); *Lexar Media, Inc. v. Michael Huang*, WIPO Case No. [D2004-1039](#) ("Typosquatting has been held under the Policy to be evidence of bad faith registration of a domain name"); *Wal-Mart Stores, Inc. v. Longo*, WIPO Case No. [D2004-0816](#) ("[typosquatting] is presumptive of registration in bad faith"). Typosquatting can be defined as "inherently parasitic and of itself evidence of bad faith". *Insurance Company v. Dyk Dylina/Privacy--Protect.org*, WIPO Case No. [D2011-0304](#). The Domain Names here were intentionally registered as a typographical version or to appear confusingly similar to the CLIPS4SALE Mark.

As discussed herein, Respondent registered the Domain Names and linked them to a website offering services in competition with Complainant. With no explanation from Respondent to justify or explain these actions, this amounts to bad faith use of the Domain Names by Respondent. See *Identigene, Inc. v. Genetest Labs*, WIPO Case No. [D2000-1100](#) (finding bad faith where the respondent's use of the domain name at issue to resolve to a website where similar services are offered to Internet users is likely to confuse the user into believing that the complainant is the source of or is sponsoring the services offered at the site); *MathForum.com, LLC v. Weiguang Huang*, WIPO Case No. [D2000-0743](#) (finding bad faith under paragraph 4(b)(iv) of the Policy where the respondent registered a domain name confusingly similar to the complainant's mark and the domain name was used to host a commercial website that offered similar services offered by the complainant under its mark).

For these reasons, the Panel holds that Complainant has met its burden of showing that Respondent registered and is using the Domain Names in bad faith under paragraph 4(a)(iii) 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 Names, <clipw4sale.com> and <clipx4sale.com>, be transferred to the Complainant.

/John C McElwaine/

John C McElwaine

Sole Panelist

Date: May 3, 2024