

ADMINISTRATIVE PANEL DECISION

Associated Newspapers Limited v. Rizwan Ahmad, Iqbal Ahmad
Case No. D2024-1338

1. The Parties

The Complainant is Associated Newspapers Limited, United Kingdom, represented by Adlex Solicitors, United Kingdom (“UK”).

The Respondent is Rizwan Ahmad, Iqbal Ahmad, India.

2. The Domain Name and Registrar

The disputed domain name <dailymail.london> 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 March 28, 2024. On March 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 4, 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 April 4, 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 amended Complaint on April 8, 2024.

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 April 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2024.

On May 7, 2024, the Center informed the Respondent that due to an apparent issue with the notification, the Center granted the Respondent a five day period (e.g., through May 12, 2024) to indicate whether it wishes to participate to this proceeding. The Respondent did not submit any response.

The Center appointed Zoltán Takács as the sole panelist in this matter on May 17, 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 in this administrative proceeding was incorporated in the UK on April 1, 1905, and is the management company and publisher of a range of publications in the UK.

The Complainant's portfolio of publications includes two national newspapers: the Daily Mail and The Mail on Sunday. The first edition of the Daily Mail was published in 1896.

The Complainant among others owns:

- UK Trademark Registration No UK00001207666 for the word mark DAILY MAIL registered since November 22, 1983 and
- European Union Trademark Registration No. 000193433 for the word mark DAILY MAIL registered since November 5, 1999.

The Complainant's website is available at "www.dailymail.co.uk". The corresponding domain name was registered on June 16, 1995.

The disputed domain name was registered on June 25, 2023. It used to redirect to a website branded "Daily Mail" followed by the heading "This website has been specially created for the information of Daily Mail. Daily Mail is an English news website".

Following the Complainant's exchange of communication with the Registrar it appears that the website at the disputed domain name was removed, and the MX records were cancelled.

Currently the disputed domain name does not resolve to any active website.

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:

- if the applicable Top Level Domain ("TLD") ".london" is disregarded the disputed domain name is identical to its DAILY MAIL trademark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy;
- given that the Respondent's website at the disputed domain name specifically referred to the Complainant the Respondent clearly had the Complainant and its business in mind when registered and used the disputed

domain name confusing the Complainant's customers by creating a likelihood of confusion as to the association between the Respondent and the Complainant which is evidence of bad faith registration and use of the disputed domain name.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is 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 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the DAILY MAIL mark is reproduced within the disputed domain name combined with the applicable TLD ".london" which is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.11.1.

The Panel finds that 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.

The website at the disputed domain name prominently displayed the Complainant's trademark without any authorization, cited the Daily Mail as a renowned British newspaper, referenced the newspaper's founders by name as well as the date of the Complainant's establishment and its London based headquarters." These facts support the finding of the risk of implied affiliation of the disputed domain name with the Complainant and thus cannot confer rights or legitimate interests of the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that 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.

As mentioned above in section B. of this decision, the website at the disputed domain name prominently displayed the Complainant's trademark without any authorization, cited the Daily Mail as a renowned British newspaper, referenced the newspaper's founders by name as well as the date of the Complainant's establishment and its London based headquarters.

These facts in view of the Panel show that the Respondent had actual knowledge of the Complainant and its trademark and has registered and used the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. Paragraph 4(b)(iv) of the Policy. The TLD being ".london" further supports the Respondent's targeting of the Complainant in the circumstances of this case, particularly noting that London is where the Complainant is based.

The disclaimer which the Respondent displayed at the bottom of the website at the disputed domain name stated among others that it was generated with the help of the Free Disclaimer Generator and that visitors of the website should contact them in case they require any more information or have any questions about the site's disclaimer.

However, since the Respondent did not demonstrate to have any rights or legitimate interests in the disputed domain name its disclaimer, which by the way is neither clear nor sufficiently prominent does not suggest any good faith regarding the Respondent's registration and use of the disputed domain name. [WIPO Overview 3.0](#), section 3.7. In addition, the Panel notes that the disclaimer is under Respondent's control, who could change it at any time.

As mentioned above, currently the disputed domain name does not resolve to any active website. However, this does not prevent a finding of bad faith when considering the totality of the circumstances. [WIPO Overview 3.0](#), section 3.3.

In this context the Panel notes the reputation of the Complainant's trademark, the composition of the disputed domain name as mentioned above, the Respondent's failure to submit a response, and that any good faith use to which the inherently misleading disputed domain name may be put appears to be implausible.

The Panel finds that in these circumstances the current passive holding of the disputed domain name does not prevent a finding of 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 <dailymail.london> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: May 23, 2024