

ADMINISTRATIVE PANEL DECISION

Marathon Digital Holdings, Inc. v. John Khaled
Case No. D2024-1446

1. The Parties

The Complainant is Marathon Digital Holdings, Inc., United States of America (“United States”), represented by Cole-Frieman & Mallon, LLP, United States.

The Respondent is John Khaled, United States.

2. The Domain Name and Registrar

The disputed domain name <marathondigital-holdings.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 5, 2024. On April 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 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 email communications to the Complainant on April 9, 16, and 19, 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 April 23, 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 April 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent’s default on May 15, 2024.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on May 21, 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 company registered in the state of Nevada, United States, that offers cryptocurrency mining services under the MARATHON DIGITAL HOLDINGS and related marks. It operates its business website at the domain name <marathondh.com>. The Complainant is the proprietor of several trademark registrations, including the following:

- International Trademark Registration No. 1 611 535 for MARATHON DIGITAL HOLDINGS (word mark), registered on July 1, 2021, for services in classes 36 and 42;
- United States Trademark Registration No. 6,861,977 for MARATHON DIGITAL HOLDINGS (word mark), registered on October 4, 2022, for services in classes 36 and 42, claiming first use in January 2021.

The disputed domain name was registered on March 6, 2024. At the time of this Decision, it did not resolve to an active website. The record reflects that, at the time of the Complaint, it resolved to a website offering cryptocurrency mining services under the name of “Marathon Digital Holdings.”

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 incorporates its MARATHON DIGITAL HOLDINGS mark in its entirety. The Respondent has used the disputed domain name for a website that impersonates the Complainant and attempts to divert traffic from the Complainant’s website. The Respondent, a competitor of the Complainant in the cryptocurrency mining trade, has no connection to the Complainant nor any right to the MARATHON DIGITAL HOLDINGS marks.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

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

The entirety of the Complainant’s MARATHON DIGITAL HOLDINGS mark is reproduced within the disputed domain name, albeit with an additional hyphen. Accordingly, the disputed domain name is phonetically identical to the mark 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.

The Panel notes there is no evidence that the Respondent has used the disputed domain name in connection with a bona fide offering of goods or services, nor that the Respondent has been commonly known by the disputed domain name. There is no evidence that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name. Moreover, the composition of the disputed domain name, which is phonetically identical to the Complainant’s MARATHON DIGITAL HOLDINGS trademark save for an additional hyphen, carries a high risk of implied affiliation to the Complainant that cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

The record contains evidence that the Respondent attempted to pass itself off as the Complainant by creating a website to offer services identical to that of the Complainant under the Complainant’s MARATHON DIGITAL HOLDINGS mark. Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off) 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 intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. The disputed domain name was registered several years after the Complainant registered its MARATHON DIGITAL HOLDINGS trademark. The disputed domain name is phonetically identical to the Complainant's mark (and visually, save for an additional hyphen) and therefore implies a connection to the Complainant. Under these circumstances, the Panel finds that the disputed domain name was registered in bad faith.

[WIPO Overview 3.0](#), section 3.1.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds that the Complainant has provided evidence that the Respondent has used the disputed domain name to impersonate the Complainant through a website offering services identical to those offered by the Complainant under the Complainant's MARATHON DIGITAL HOLDINGS mark. The Respondent has not attempted to provide a good-faith explanation for such conduct and the Panel does not find it credible that one could exist. The fact that the disputed domain name does not currently resolve to an active website does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3. On this 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 <marathondigital-holdings.com> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: June 4, 2024