

## **ADMINISTRATIVE PANEL DECISION**

Deluxe Gain Holdings Limited v. Mike Marine, Cloud Servers  
Case No. D2024-1672

### **1. The Parties**

The Complainant is Deluxe Gain Holdings Limited, Hong Kong, China, represented by Bryan Cave Leighton Paisner LLP, United States of America.

The Respondent is Mike Marine, Cloud Servers, Pakistan.

### **2. The Domain Name and Registrar**

The disputed domain name <madamealexanderdoll.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 19, 2024. On April 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 22, 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 May 1, 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 May 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 May 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 12, 2024.

The Center appointed Marina Perraki, Nayiri Boghossian, and Phillip V. Marano as panelists in this matter on July 13, 2024. The Panel finds that it was properly constituted. Each member of 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 active in the field of dolls and related products. The Complainant has been selling collectible dolls under the brand name MADAME ALEXANDER in commerce continuously since at least 1930. Per the Complaint, in the collectible dolls market, MADAME ALEXANDER is one of the most highly regarded brands, featured in the Smithsonian Museum and sold in retail outlets throughout the world. Per the Complaint, in the year 2000 the Complainant was inducted in the Toy Industry Hall of Fame.

The Complainant's group owns trademark registrations for MADAME ALEXANDER, including the United States trademark registration no. 4,986,240, for MADAME ALEXANDER (standard character), filed on October 9, 2014, and registered on June 28, 2016, for goods in international classes 14 and 28.

The Domain Name was registered on November 27, 2023, and it resolves to an inactive webhost parking 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 Domain Name.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists the three elements which the Complainant must satisfy with respect to the Domain Name:

- (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 registered trademark 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 mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, “doll”, may bear on assessment of the second and third elements, the Panel finds the addition of such term, does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain (“gTLD”) “.com” is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons ([WIPO Overview 3.0](#), section 1.11.1).

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 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 Domain Name such as those enumerated in the Policy or otherwise.

The Respondent did not demonstrate, prior to the notice of the dispute, any use of the Domain Name or a trademark corresponding to the Domain Name in connection with a bona fide offering of goods or services.

On the contrary, as the Complainant demonstrated, the Domain Name resolves to an inactive webhost parking webpage. This, along with the fact that the Domain Name was registered with a privacy shield service, speaks against any rights or legitimate interests held by the Respondent (*Ann Summers Limited v. Domains By Proxy, LLC / Mingchun Chen*, WIPO Case No. [D2018-0625](#); *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#)).

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.

The Panel concludes that the Respondent has registered and uses the Domain Name in bad faith. Because the MADAME ALEXANDER mark had been widely used for purposes of the Policy, as repeatedly recognized in prior panel determinations (*Deluxe Gain Holdings Limited v. Super Privacy Service Ltd (c/o Dynadot)/ Wu Yu*, WIPO Case No. [D2021-3005](#); *Deluxe Gain Holdings Limited v. Xavier Faurot*, WIPO Case No. [D2022-3198](#)) and registered at the time of the Domain Name registration by the Respondent, the Panel finds it more likely than not that the Respondent had the Complainant’s mark in mind when registering this Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#)).

Furthermore, the Domain Name incorporates in its entirety the Complainant's mark with the addition of the term "doll" which is descriptive of the Complainant's field of business. All the above show knowledge and purposeful targeting of the Complainant and its brand.

Panels have found that the non-use of a domain name, in the form of a webhost parking website, would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the composition of the Domain Name, incorporating fully the distinctive trademark of the Complainant MADAME ALEXANDER plus the word "doll", which describes the Complainant's field of business, and finds that in the circumstances of this case the passive holding of the 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 <madamealexanderdoll.com> be transferred to the Complainant.

*/Marina Perraki/*

**Marina Perraki**

Presiding Panelist

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Panelist

*/Phillip V. Marano/*

**Phillip V. Marano**

Panelist

Date: July 26, 2024