

ADMINISTRATIVE PANEL DECISION

McDonald's Corporation v. ejder bambu
Case No. D2024-1976

1. The Parties

The Complainant is McDonald's Corporation, United States of America ("United States"), represented by Neal, Gerber & Eisenberg LLP, United States.

The Respondent is ejder bambu, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <goldenarchesentertainment.com> is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 10, 2024. On May 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 14, 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 (Super Privacy Service c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 15, 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 May 20, 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 May 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 19, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on July 3, 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 is McDonald's Corporation, the world's largest fast food restaurant chain serving over 69 million customers daily in over 100 countries in more than 38,000 restaurants. The company was founded in 1940 by Richard and Maurice McDonald who later turned it into a franchise.

In addition to numerous trademark registrations in dozens of jurisdictions worldwide for its M logo formed of two intersecting golden arched ("the Golden Arches logo" first introduced in 1953 at a location in Phoenix, Arizona) the Complainant owns a portfolio of trademark registrations in a number of jurisdictions for trademarks comprising in whole or in part of the term Golden Arches (collectively referred to as the "GOLDEN ARCHES mark"). These trademark registrations, by way of example, include the Canadian Trademark Registration No. TMA150326 LOOK FOR THE GOLDEN ARCHES registered since April 21, 1967.

The Complainant is also owner of a number of domain name registrations comprising portions of the trademark. For example, the domain name <goldenarchesunlimited.com>, which was registered on September 5, 2019, resolves to the Complainant's online merchandise shop.

The disputed domain name was registered on May 3, 2024 and has been resolving to trading site Dan.com where it is being listed for sale for USD 2,850.

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, which fully incorporates the GOLDEN ARCHES mark is confusingly similar to it since the addition of the term "entertainment" to the mark in the disputed domain name does not prevent a finding of confusing similarity;
- 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; and
- the Respondent has registered the disputed domain name with full knowledge of its famous GOLDEN ARCHES mark with the intent to falsely suggest an affiliation or endorsement by the Complainant which is evidence of bad faith.

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 GOLDEN ARCHES terms of the Complainant's mark are fully reproduced and are recognizable within the disputed domain name. Accordingly, the disputed 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 the term "entertainment" 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 disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 Respondent is not affiliated with the Complainant in any way and has never been authorized by the Complainant to register and use a domain name incorporating its GOLDEN ARCHES mark.

The Respondent's attempt to profit from the renown of the GOLDEN ARCHES mark in offering the disputed domain name for sale does not amount to a bona fide offering of goods or services, or legitimate noncommercial fair use.

In addition, the inherently misleading nature of the disputed domain name, incorporating the Complainant's globally known trademark and a descriptive term, carries risk of implied affiliation of the disputed domain name with the Complainant and thus does not confer any rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

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.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

In the present case, the Panel notes that:

- according to Wikipedia, "the Golden Arches are the symbol of McDonald's and are widely regarded as one of the most recognizable logos in the world";
- according to a BBC article of November 6, 2017, the Complainant's "Golden Arches is the most famous corporate symbol in the world";
- according to Wikipedia "the Golden Arches logo" is commonly referred to as the Golden Arches;
- the use and registration of both "the Golden Arches logo" and the GOLDEN ARCHES mark long predate the date of registration of the disputed domain name; and
- a basic Internet search for GOLDEN ARCHES almost exclusively returns the Complainant and or its franchisees.

Thus, in view of the Panel, it is inconceivable that the registration of the disputed domain name was made without full knowledge of the existence of the Complainant and its mark. Given the incorporation of the Complainant's globally known GOLDEN ARCHES mark in the disputed domain name it is inconceivable that the Respondent could have registered the disputed domain name without the intention to target the Complainant and its trademark which is evidence of bad faith. Paragraph 4(b)(iv) of the Policy.

As mentioned above, the Respondent has been using the disputed domain name to redirect Internet users to the trading site Dan.com where the disputed domain name is being listed for sale for USD 2,850. This signals an intention on the part of the Respondent to derive commercial gain from the sale of the disputed domain name riding on the reputation of the Complainant's well-known mark for a sum far in excess of the out of pocket registration costs relating to the disputed domain name which is additional evidence of bad faith registration and use of the disputed domain name. Paragraph 4(b)(i) of 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 <goldenarchesentertainment.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: July 17, 2024