

## **ADMINISTRATIVE PANEL DECISION**

Colonial Ghosts LLC and Lance Zaal v. Mike Carter  
Case No. D2024-2687

### **1. The Parties**

The Complainants are Colonial Ghosts LLC and Lance Zaal, United States of America (“United States”), represented by Woods Rogers PLC, United States.

The Respondent is Mike Carter, United States.

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

The disputed domain name <usaghostadventures.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2024. On July 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (USAGHOSTADVENTURES.COM and JOHN DOE) and contact information in the Complaint.

The Center sent an email communication to the Complainant on July 8, 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 July 12, 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 July 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 11, 2024. The Response was filed with the Center on August 13, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on August 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**

The Complainant Colonial Ghosts LLC (“Colonial Ghosts”) is a limited liability company organized under the laws of the State of Virginia, United States, and headquartered in Richmond, Virginia. It is owned by the Complainant Lance Zaal. As they are jointly represented and their interests are aligned with respect to the disputed domain name, the Panel will allow both parties to proceed as the Complainants and will refer to them collectively hereafter as “the Complainant”.

The Complainant engages in the business of conducting ghost tours and related services and owns and operates several physical facilities associated with “paranormal and/or ‘true crime’ events”. The Complainant operates a website at “www.usghostadventures.com.”

The Complainant Colonial Ghosts LLC holds United States Trademark Registration Number 6046260 (registered on May 5, 2020) for the word mark US GHOST ADEVENTURES in International Class 41 (conducting guided tours). The Complainant claims this also as a common law mark, stating that it has been offering guided ghost tours and related hospitality services continuously under that name since September 3, 2019.

The disputed domain name was created on March 4, 2024, and registered in the name of a domain privacy service. After receiving notice of this proceeding, the Registrar identified the underlying registrant as the Respondent Mike Carter, listing no organization and showing a postal address in the State of Maryland, United States, with a Gmail contact email address.

The disputed domain name resolves to a website headed “USA GHOST ADVENTURES” (the “Respondent’s website”) with the tagline “Locally Owned & Operated Ghost Tour Companies”. There is no “About” page, and the copyright notice is in the name of “USA Ghost Adventures”. The Respondent’s website has a “Contact” page soliciting names and email addresses of visitors and also “Find a Tour” and “Locations” pages with links to more than 60 websites of ghost tour operators in cities around the United States, as well as a “Why Go Local” page with media articles discussing ghost tours and competition (including litigation) between locally operated ghost tours and national chains. The Respondent’s website does not include a facility for placing orders or buying tickets for ghost tours. The Panel notes, however, that one of the websites linked from the Respondent’s website is “www.toursandcrawls.com,” which sells tickets for walking tours and pub tours. That website lists the Respondent as its owner and also advertises his book, “Haunted Annapolis, Ghosts of the Capital City”.

#### **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 is confusingly similar to its US GHOST ADVENTURES mark and asserts that the Respondent registered the disputed domain name without authorization only to create a “counterfeit” version of the Complainant’s website promoting the same ghost tour services, creating confusion and resulting in the Respondent unfairly profiting from the Complainant’s advertising and causing the Complainant substantial injury.

## B. Respondent

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name. The Respondent acknowledges that the Complainant holds a trademark registration for US GHOST ADVENTURES but denies that the disputed domain name is confusingly similar, as it contains a different geographic abbreviation, “usa” as opposed to “us”, which is relevant to its links to ghost tour websites throughout the United States. The Respondent points out that an unrelated company similarly operates a website at “www.americanghostadventures.com.” The Respondent argues that site visitors would not be confused because the Respondent’s website is purely informational and not monetized, unlike the Respondent’s commercial website advertising and taking reservations for its services. The Respondent denies any bad-faith motive in setting up an informational website about ghost tours and explains his purposes as follows:

“[The disputed domain name was] registered and the site created in response to a number of national tour companies which have for several years now been moving into geographic locations where existing locally owned tour companies had long been established and operating. These small, local companies simply do not have the resources to put into marketing against a large, well-funded national company. The website in dispute was established as a no cost way for local companies to list their businesses online for potential users to more easily find them. There is no cost to an owner to list their company on this online directory, and there is no profit, nor even capital generated by this site. It is for informational use only and poses no financial threat on its own to the complainant.”

## 6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) and the respondent has no rights or legitimate interests in respect of the domain name;
- (iii) and the domain name has been registered and is being used 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 (here, the registered US GHOST ADVENTURES mark) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. It is not necessary to consider the Complainant’s claimed common law rights in addition, which the Complainant has not documented sufficiently in any event. See [WIPO Overview 3.0](#), section 1.3.

The Panel finds the mark is recognizable within the disputed domain name, differing only in using the alternative geographic abbreviation “usa” (United States of America) rather than “us” for “United States” and omitting the spaces between terms that cannot be included in the DNS address system. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9 (misspellings).

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 Respondent is not commonly known by a corresponding name.

The Response may be read as claiming a legitimate interest in the dictionary meaning of the disputed domain name, as it is used for an informational website about ghost tours in the United States, and the Respondent suggests that this is a noncommercial fair use, as the Respondent’s website is not “monetized”.

However, the composition of the disputed domain name very closely resembles the Complainant’s registered mark and domain name, and the Respondent’s website is more than merely informational: it links directly to more than 60 commercial websites of the Complainant’s competitors, including the Respondent’s own website at “www.toursandcrawls.com.” The Panel finds, therefore, that the disputed domain name was likely selected chiefly for its trademark rather than its dictionary value and does not represent a legitimate, noncommercial fair use as described in the Policy, paragraph 3(c). See [WIPO Overview 3.0](#), sections 2.6 (criticism sites) and 2.10 (dictionary words).

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, who is himself a ghost tour operator and a writer and blogger familiar with the industry, was clearly aware of the Complainant and its mark and likely selected the disputed domain name in emulation of that mark. The Respondent’s website includes media articles critical of the Complainant and copies of legal complaints against the Complainant. The Response makes it clear that the Respondent was motivated by concerns about aiding local ghost tour operators in the face of better-funded marketing by national operators such as the Complainant. But the Respondent went beyond offering criticism and advocacy and created a “directory” with links to competitors’ commercial websites, including the Respondent’s own website, using the disputed domain name that differed by a single letter from the Complainant’s registered trademark. This cannot be considered a legitimate, fair use but rather fits the paradigm of misleading Internet users for commercial gain using a domain name that is confusingly similar to a trademark (Policy, paragraph 4(b)(iv)).

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 <usaghostadventures.com> be transferred to the Complainant.

*/W. Scott Blackmer/*

**W. Scott Blackmer**

Sole Panelist

Date: September 2, 2024