

ADMINISTRATIVE PANEL DECISION

MasTec North America, Inc. v. High Liner, High Liner
Case No. D2024-2886

1. The Parties

Complainant is MasTec North America, Inc., United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

Respondent is High Liner, High Liner, United States.

2. The Domain Name and Registrar

The disputed domain name <mastecus.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 16, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 17, 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 (Domain Admin) and contact information in the Complaint. The Center sent an email communication to Complainant on July 18, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 22, 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 Respondent of the Complaint, and the proceedings commenced on July 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 16, 2024.

The Center appointed Jeffrey M. Samuels as the sole panelist in this matter on August 27, 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

Complainant Mastec North America, Inc. is a leading national infrastructure company. Its activities include the building, installation, maintenance, and upgrade of energy, communication, and utility infrastructure. Complainant has been in business for over 80 years, has offices across North America, and employs nearly 22,000 skilled professionals.

Since its inception, Complainant has continuously used its MASTEC mark in connection with infrastructure construction services. Complainant owns, via assignment, the following United States trademark registrations for the MASTEC mark: Registration No 2544425, which issued on March 5, 2002; and Registration No. 2130081, which issued on January 20, 1998. Priority for the oldest MASTEC registration dates to 1998, decades before Respondent registered the disputed domain name. Complainant also owns and operates the domain name <mastec.com>.

5. Parties' Contentions

A. Complainant

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 the MASTEC trademark. It points out that the disputed domain name incorporates the mark in full, changing the mark only by adding the generic term "US," which directly identifies the location of Complainant's services, and the generic top-level domain ("gTLD") ".com."

Complainant next argues that Respondent has no rights or legitimate interests in respect of the disputed domain name. In this regard, Complainant asserts that Respondent is using the disputed domain name to impersonate Complainant and its employees by creating fraudulent email addresses – "[...].@mastecus.com" - including the email address of Complainant's director of procurement and supply chain operations, to send fraudulent messages to vendors requesting quoted prices for products. As such, Complainant maintains, Respondent may not be found to be using the disputed domain name in connection with a bona fide offering of goods or services or to making a protected noncommercial or fair use of the disputed domain name. There also is no evidence that Respondent is commonly known by the disputed domain name.

Complainant adds that it has not authorized, licensed, or consented to Respondent's registration and use of domain names incorporating Complainant's marks or any confusingly similar variation thereof.

With respect to the issue of "bad faith" registration and use. Complainant relies, in part, on the fact that the disputed domain name was used as an email address to impersonate one of its employees to place bogus purchase orders. Complainant notes that there is no content posted on the disputed domain name but that, instead, Respondent is using the disputed domain name to resolve to a web page which contains the text "Index of/" and a folder entitled "egi-bin," which does not contain any files and, when clicked, resolves to an error page. Such passive holding supports a finding of the requisite bad faith in this case, Complainant asserts, given that the MASTEC mark has a strong reputation and is widely known and that Respondent has provided no evidence of any actual or contemplated good faith use by it of the disputed domain name.

Complainant further contends that the requisite bad faith may be found based on Respondent's actual and constructive notice of the MASTEC mark, Respondent's use of false contact information, Respondent's use of a proxy service to register the disputed domain name, as well as on the contention that the disputed domain name is so obviously connected with Complainant and its services "that its very use by someone with no connection to the Complainant suggests opportunistic bad faith."

B. Respondent

Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

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.

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 mark is reproduced within the disputed domain name and the addition of the geographic term "US" and the gTLD ".com" does not prevent a finding of confusing similarity from Complainant's MASTEC mark. Accordingly, the disputed domain name is confusingly similar 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.

Panels have held that the use of a domain name for illegal activity such as that asserted in this case, i.e., impersonation and phishing through a fraudulent email scheme, 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

Panels have found that the non-use of a domain name, such as established in this case, 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 distinctiveness and widespread reputation of Complainant's MASTEC trademark, the composition of the disputed domain name, and Respondent's failure to offer any explanation for its registration and use of the disputed domain name and concludes that the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Panels have held that the use of a domain name for illegal activity, such as that established in this case, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

A finding of bad faith is also supported by Respondent's use of false contact information in the registration of the disputed domain name. While the Whois information indicates that the registrant to be High Liner, High Liner, the registered name and address is connected to the company High Liner Foods USA Inc. Moreover, the phone number set forth is also incorrect.

The Panel finds that 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 <MasTecUS.com> be transferred to Complainant.

/Jeffrey M. Samuels/

Jeffrey M. Samuels

Sole Panelist

Date: September 10, 2024