

## **ADMINISTRATIVE PANEL DECISION**

The Chancellor Masters & Scholars of The University of Oxford v. Elitsa Kancheva, The Online Museum Ltd  
Case No. D2024-3272

### **1. The Parties**

Complainant is The Chancellor Masters & Scholars of The University of Oxford, United Kingdom (“UK”), represented by Wiggin LLP, UK.

Respondent is Elitsa Kancheva, The Online Museum Ltd, UK.

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

The disputed domain name <ashmolean.museum> is registered with NETIM SARL (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 9, 2024. On August 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 12, 2024, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to Complainant on August 12, 2024, providing the registrant and contact information disclosed by the Registrar.

The Center verified that 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 August 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 3, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 4, 2024.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on September 20, 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 is one of the world's oldest and most renowned universities. Complainant owns and operates in Oxford, England the well-known Ashmolean Museum of art and anthropology, which was founded in 1682 and opened in 1683 as the UK's first public museum.

In addition to well-established common-law trademark rights, Complainant owns registrations for the ASHMOLEAN trademark including: UK trademark registration No. UK00003307500 registered on August 3, 2018 in class 3; as well as UK trademark registration No. UK00911523644 and European Union trademark registration No. 011523644 both registered on May 29, 2013, in classes 9, 16 and 41.

The disputed domain name was registered October 22, 2020. The disputed domain name routes to a webpage that appears to be the official website for Complainant's Ashmolean Museum.

#### **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.

Complainant avers that the disputed domain name was previously owned by Complainant from 2005 to 2020, and that Complainant allowed its ownership to lapse in 2020. Complainant further claims that the disputed domain name resolves to a website that mirrors an old version of Complainant's Ashmolean website, reproducing the ASHMOLEAN mark and Complainant's copyright images without authorization or approval. Screenshots annexed to the Complaint show that the disputed domain name resolves to webpages copying the 2017 version of Complainant's actual Ashmolean website, without any indication that the website is not the genuine website for the Ashmolean Museum.

Complainant also avers that at times, advertisements appearing on various webpages of the website to which the disputed domain name resolves redirected users to a third-party gambling website.

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

Respondent did not reply to 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 Panel finds that Complainant has also established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of Policy paragraph 4(a) has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which 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.

The Panel accepts Complainant’s undisputed evidence and finds that the content of the website to which the disputed domain name resolves appears to be infringing Complainant’s rights under trademark and copyright law.

Having reviewed the available record, the Panel finds that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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 considers that Respondent has used the disputed domain name to intentionally attempt to attract, confuse and profit from Internet users seeking information about Complainant’s Ashmolean Museum. Such use of the disputed domain name could not be said to be bona fide.

Panels have held that the use of a domain name for illegal activity, here, impersonation/passing off and copyright infringement, 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 Policy paragraph 4(a) 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 disputed domain name was previously owned by Complainant. Respondent has created a website that impersonates Complainant’s Ashmolean Museum and has used the website to post advertisements with links redirecting users to gambling websites unrelated to authorized uses of the ASHMOLEAN marks. The Panel finds that Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant’s mark, establishing Respondent’s bad faith under paragraph 4(b)(iv) of the Policy.

Panels have held that the use of a domain name for illegal activity, here, impersonation/passing off and copyright infringement, also constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the available record, the Panel finds Respondent's registration and use of the disputed domain name is further evidence of Respondent's bad faith under the Policy.

The Panel finds that Complainant has established the third element of paragraph 4(a) 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 <ashmolean.museum> be transferred to Complainant.

*/Jeffrey D. Steinhardt/*

**Jeffrey D. Steinhardt**

Sole Panelist

Date: October 4, 2024