

ADMINISTRATIVE PANEL DECISION

Laura Morse v. Mitch Lucker

Case No. D2024-3754

1. The Parties

The Complainant is Laura Morse, United States of America (“United States”), self-represented.

The Respondent is Mitch Lucker, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <lauramorse.org> 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 September 16, 2024. On September 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 16, 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 (Identity unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 23, 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 September 27, 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 September 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 21, 2024.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on October 25, 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 is a registered psychologist in Lancaster, Pennsylvania, United States. The Complainant has provided various types of mental health therapy for a period of eight years. The Complainant registered the disputed domain name on April 30, 2016, and maintained it for eight years, including making annual renewals of the said registration until April 30, 2024, when the Complainant's credit card on file with the then registrar of record had expired. For the eight-year duration of the Complainant's registration, the disputed domain name was used in connection with a website promoting the Complainant's services under the Complainant's personal name (historic screenshot evidence provided). Said website featured the Complainant's professional credentials, therapy services and practice.

Following the Complainant's inadvertent failure to renew the disputed domain name, the registration lapsed. The Respondent registered the disputed domain name on April 30, 2024. The website associated with the disputed domain name has since been populated with content originally created by the Complainant relating to the Complainant's business activities, to which has been added an advertisement promoting a therapist from a competing psychological counselling center, and text promoting human growth hormones. This text hyperlinks and directs Internet users to two websites selling human growth hormones (evidence provided).

The Complainant has used its personal name as an identifier of the Complainant's business services, not only on the former website associated with the disputed domain name but also on multiple counseling listing and referral websites, including "www.yelp.com" (evidence provided).

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 asserts unregistered trademark rights in its personal name, submitting that this is a distinctive identifier in relation to the Complainant's professional services, posted in numerous locations on referral websites, that consumers associate with the Complainant's services, adding that the disputed domain name is confusingly similar to such name and mark.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, noting that the Respondent is not named "Laura Morse", and has not conducted any business nor has any legitimate purpose under such name, adding that the Respondent is not making a legitimate noncommercial or fair use of the Complainant's name, such as, for example, for public criticism. The Complainant submits that the Respondent is impersonating the Complainant and using the Complainant's professional reputation to promote the sale of human growth hormones, and to direct Internet users to two websites selling these products. The Complainant asserts that such use is actively targeting the Complainant's reputation and credibility and could cause the Complainant to lose customers.

The Complainant asserts that the disputed domain name has been registered and is being used in bad faith, noting that as soon as the Respondent registered the disputed domain name, it populated the website associated with the disputed domain name with content relating to the Complainant in order to create confusion with the Complainant's mark to falsely represent that the Complainant endorses and promotes the sale of human growth hormones. The Complainant concludes that the Respondent has used the disputed domain name to attract Internet users fraudulently who are looking to learn more about the Complainant and its psychological counselling services.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Considerations

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. As the Respondent's mailing address is stated to be in Ukraine, subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel notes that even if it is unclear whether the courier was able to deliver the written notice to the address which the Respondent had provided in Ukraine, the notice has been delivered to the Respondent's email address provided by the Registrar. The Respondent has not opposed the continuation of the proceedings. The Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer the disputed domain name shall be referred to the jurisdiction of the courts of the location of the concerned registrar, which is the United States.

Moreover, as described below, the Panel has no doubt that the Respondent registered and has used the disputed domain name in bad faith to target the Complainant and mislead consumers. The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

6.2 Substantive Issues

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 Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

Factors that demonstrate source-identifying capacity in the claimed mark to the Panel's satisfaction are that it has been used in commerce as a designation of the source of the Complainant's professional services for a reasonably lengthy period, namely eight years, and that there has been active promotion of the Complainant's said services under such name, used as a trademark-like identifier, on a variety of referral websites. Furthermore, the present website associated with the disputed domain name has been configured to impersonate the Complainant in connection with the promotion of third party products and the services of a competitor, demonstrating targeting of the Complainant's mark. The fact that a respondent is shown to have been targeting the complainant's mark (e.g., based on the manner in which the related website is used) may support the complainant's assertion that its mark has achieved significance as a source identifier. [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 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 illegitimate activity (here, claimed impersonation/passing off, and use of the Complainant’s name and professional reputation via partially cloned website content belonging to the Complainant to promote human growth hormone products that the Complainant indicates that it would not promote due to health dangers) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Furthermore, the disputed domain name is also being used under the guise of the Complainant’s professional identity to promote the business of one of the Complainant’s competitors and this, likewise, cannot confer rights or legitimate interests upon the Respondent within the meaning of the Policy. Notably, this activity could not be considered as a bona fide offering of goods or services due to the fact that, at its root, it impersonates the Complainant and is a misuse of the Complainant’s unregistered trademark, and the professional reputation inherent in the same, by which the Respondent intends to benefit commercially.

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 registered and used the disputed domain name for a website that gives the impression that the Complainant is still the operator thereof, following lapse of the Complainant’s registration of the disputed domain name and its registration by the Respondent. Said website uses the Complainant’s unregistered trademark and professional reputation to promote products that the Complainant indicates that it would not promote due to health dangers, and also promotes the business of one of the Complainant’s competitors.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The fact that the Respondent has cloned aspects of the former website associated with the disputed domain name belonging to the Complainant, and has merely added products which it wishes to promote along with a link to a competitor of the Complainant, indicates to the Panel’s satisfaction that the disputed domain name was registered and has been used in the knowledge of the Complainant, and with intent to target the Complainant’s unregistered trademark rights in the LAURA MORSE mark for the Respondent’s commercial gain. The registration and use of the disputed domain name for this purpose could not, on any view, be regarded as a good faith activity.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 <lauramorse.org> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: November 5, 2024.