

ADMINISTRATIVE PANEL DECISION

Newsmax Media Inc. v. Domain Privacy, Domain Name Privacy Inc.
Case No. D2024-4291

1. The Parties

The Complainant is Newsmax Media Inc., United States of America, represented by SafeNames Ltd., United Kingdom.

The Respondent is Domain Privacy, Domain Name Privacy Inc., Cyprus.

2. The Domain Name and Registrar

The disputed domain name <newsmaxstock.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 17, 2024. On October 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 18, 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 (Contact Privacy Inc. Customer 0171888742) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 21, 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 October 21, 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 October 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 13, 2024.

The Center appointed Federica Togo as the sole panelist in this matter on November 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

It results from the Complainant's undisputed allegations that it is a multi-media broadcasting, digital publishing company, and operator of online conservative newspaper Newsmax.

The Complainant is the registered owner of many trademarks for NEWSMAX, e.g. European Union Trade Mark no. 010951192 NEWSMAX, registered on October 24, 2012 for goods and services in classes 9, 16, 38 and 41.

It uses the domain name <newsmax.com> for its official website. In June 2024, the Complainant announced publicly its plans to become a publicly-listed company in 2025. In addition to allowing its users to access information and investment opportunities from "https://invest.newsmax.com", the Complainant's announcement was covered across numerous media outlets.

The disputed domain name was registered on July 25, 2024. Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolved to a parking page displaying Pay-Per-Click ("PPC") links.

Finally, the Complainant sent a cease-and-desist letter to the Respondent on August 8, 2024. The Respondent did not reply to it.

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 the Complainant's trademark, since it features the NEWSMAX mark in its entirety in addition to the term "stock". It is well established that where a domain name wholly reproduces a complainant's mark, the addition of a generic term is inconsequential to a finding of confusing similarity for the purposes of the first element.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent does not have any trademark rights to the term NEWSMAX, nor any similar term. There is also no evidence that the Respondent retains any unregistered trademark rights to NEWSMAX. Neither has the Respondent received any license from the Complainant to use a domain name featuring the NEWSMAX trademark. In addition, the disputed domain name has resolved to a webpage which displays PPC advertisement links that redirect users to third party websites that offer services competitive to the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, the Complainant accrued substantial goodwill since the Complainant's establishment in 1998; the NEWSMAX name has garnered considerable popularity in the sector of online newspapers and political journalism and therefore the mere registration of a domain name that is confusingly similar to a famous trademark by an unaffiliated entity can by itself create the presumption of bad faith. Finally, the Complainant sent a cease-and-desist letter to the Respondent on August 8, 2024. The Respondent was given the opportunity to provide evidence of any actual or contemplated good faith use but

chose not to respond. Therefore, this is further evidence of bad faith. The Complainant emphasises that the disputed domain name has been used to direct Internet users to webpages that display PPC hyperlinks which redirect to competitor third-party websites of the Complainant. This constitutes a clear attempt to generate commercial gain by misleading online users with the disputed domain name. Finally, the Complainant recognises the Respondent's attempt to conceal its identity using privacy services.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "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". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will therefore proceed to analyse whether the three elements of paragraph 4(a) of the Policy are satisfied.

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 entirety of the mark is reproduced 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 "stock", 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 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.

Furthermore, it results from the undisputed evidence before the Panel that the disputed domain name resolves to a parking website comprising PPC links that compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users. Prior UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent bona fide offering of goods or services, where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users (see [WIPO Overview 3.0](#) at section 2.9, with further references). This Panel shares this view. Therefore, such use can neither be considered as bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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.

One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

In the present case, the Panel notes that it results from the Complainant's documented allegations that the disputed domain name resolves to a parking page displaying PPC links that compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users. For the Panel, it is therefore most likely that the Respondent positively knew the Complainant's mark. In this regard, the Panel also notes that the disputed domain name, incorporating the Complainant's trademark with the term "stock", was registered shortly after the Complainant's public announcement to become a publicly-listed company. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent targeted the Complainant's trademark when it registered the disputed domain name.

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.

In this regard, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

(i) the nature of the disputed domain name (i.e. wholly incorporating the Complainant's trademark with the additional term "stock");

- (ii) the content of the website to which the disputed domain name directs (i.e., a parking page displaying PPC links that compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users); and
- (iii) a clear absence of rights or legitimate interests coupled with no response for the Respondent's choice of the disputed domain name;
- (iv) the Respondent's lack of reply to the Complainant's cease-and-desist letter or the Complaint.

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 <newsmaxstock.com> be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: December 3, 2024