

ADMINISTRATIVE PANEL DECISION

Mary's Meals International Organisation, Mary's Meals USA, Inc. v. Mario Yagobi

Case No. D2024-4478

1. The Parties

Complainants are Mary's Meals International Organisation, United Kingdom, Mary's Meals USA, Inc., United States of America ("United States"), represented by Holland & Knight, LLP, United States.

Respondent is Mario Yagobi, United States.

2. The Domain Name and Registrar

The disputed domain name <marysmealsusa.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 October 30, 2024. On October 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint.

The Center sent an email communication to Complainant on November 1, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on November 7, 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 November 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 27, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on December 3, 2024.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on December 6, 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

Complainants (together with their organizational affiliates, "Complainant") is an international charitable organization, with an affiliate in the United States. For approximately two decades prior to the registration of the disputed domain name, Complainant has offered charitable services and related products under the mark MARY'S MEALS. Complainant is the owner of several registrations for its MARY'S MEALS mark. These include, among others, United States Registration Nos. 3776922 and 3776923 (both registered April 20, 2010).

The disputed domain name was registered on February 23, 2023. Respondent has set the URL associated with the disputed domain name to redirect users to an unauthorized, third-party website that professes to offer charitable services similar to those offered by Complainant, and which invites online users to share their personal and financial information with Respondent or its affiliates. Respondent has no affiliation with Complainant, nor any license to use Complainant's marks.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainants' trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns rights to the MARY'S MEALS mark for which it has gained "significant and far-reaching" rights with regard to Complainant's charitable services and related products. Complainant also asserts that it owns the registrations for the domain names <marysmeals.org> (registered November 12, 2004) and <marysmealsusa.org> (registered April 28, 2008), which Complainant uses to communicate with prospective donors online.

Complainant contends that Respondent has incorporated in full Complainant's MARY'S MEALS mark into the disputed domain name, with only the addition of the geographically descriptive term "usa", which Complainant also uses in its own online communications with donors. Complainant further contends that Respondent lacks rights or legitimate interests in the disputed domain name, and rather has registered and is using it in bad faith, having likely acquired the disputed domain name for Respondent's own commercial gain.

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, MARY'S MEALS, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Although the addition of other terms (here, the term "usa") may bear on assessment of the second and third elements, the Panel finds the addition of such term/s does not prevent a finding of confusing similarity between the disputed domain name and Complainant's mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel therefore finds that the disputed domain name is identical to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

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. Complainant has provided evidence that the disputed domain name is being used to redirect users to an unauthorized, third-party website that purports to offer charitable services similar to those offered by Complainant, and which invites online users to share their personal and financial information with Respondent or its affiliates. Regardless of the legitimacy of the purported third-party charitable services, the registration and use of the inherently misleading disputed domain name, incorporating Complainant's trademark with the descriptive term "usa", cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that Complainant has provided sufficient evidence of Respondent's lack of "rights or legitimate interests" in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4 of this Panel's Decision, the record includes evidence that the URL associated with the disputed domain name is being used to redirect users to an unauthorized, third-party website that professes to offer charitable services similar to those offered by Complainant, and which invites online users to share their personal and financial information with Respondent or its affiliates. Hence, Respondent is trading on the goodwill of Complainant's trademarks to attract Internet users, apparently for Respondent's own commercial gain.

Therefore, the Panel finds sufficient evidence that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph (4)(a)(iii) 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 <marysmealsusa.com> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Date: December 20, 2024