

ADMINISTRATIVE PANEL DECISION

Mangas.io v. Marc Lassiter
Case No. DIO2024-0023

1. The Parties

The Complainant is Mangas.io, France, represented INLO, France.

The Respondent is Marc Lassiter, United States of America, represented by Mandelbaum Barrett PC, United States of America.

2. The Domain Name and Registrar

The disputed domain name <manga.io> (the “Disputed Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 5, 2024. On August 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 5, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 August 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 1, 2024. The Response was filed with the Center on August 31, 2024.

The Center appointed Flip Jan Claude Petillion, Nathalie Dreyfus, and Georges Nahitchevansky as the three-member Panel in this matter on September 18, 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, Mangas.io, is a French company registered since 2019 that offers manga (Japanese comic books) to read on mobile devices in a subscription-based model. It provides users with access to a wide range of licensed manga content for a monthly fee.

The Complainant is the owner of the domain name <mangas.io>.

The Respondent, Marc Lassiter, is the founder of Malgo Group Inc., a company registered since 2021 in the state of Delaware, United States of America. According to the Respondent company's website, the company offers various digital products designed for personal and business use across a range of industries, including AI tools and a historical reference platform.

The Disputed Domain Name was registered on July 5, 2023. On March 15, 2024, the Complainant contacted the Respondent by email claiming that the website linked to the Disputed Domain Name creates confusion with the Complainant's brand and services, and distributes several copyrighted comics without the rightsholder's authorization. The Respondent immediately deleted the contents indicated by the Complainant. On April 20, 2024, the Disputed Domain Name appeared to resolve to a webpage offering content about manga and mentioning a "Catalog" tab as well as a list of manga. The Disputed Domain Name currently appears to resolve to a webpage permitting users to register to get early access to a MMORPG ("massively multiplayer online role-playing game"). The Parties continued to correspond, and in particular discussing a potential sale of the Disputed Domain Name, without resolving the dispute.

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.

First, the Complainant contends that the Disputed Domain Name is confusingly similar to the unregistered trademark "MANGAS.IO" in which it claims to have rights. According to the Complainant, the combination of the second-level domain (hereafter, the "SLD") combined with the Top-Level Domain (hereafter, the "TLD") includes the Complainant's unregistered trademark "MANGAS.IO". The Complainant also states that the fact that the letter "s" from the Complainant's unregistered trademark "MANGAS.IO" is missing in the Disputed Domain Name constitutes typosquatting.

Second, the Complainant claims that the Respondent has no legitimate interests in respect of the Disputed Domain Name as, according to the Complainant:

- the Respondent used the Disputed Domain Name to distribute comics illegally; and
- the Respondent cannot be commonly known by the Disputed Domain Name.

Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. According to the Complainant:

- the Respondent used the Disputed Domain Name to facilitate the sale of counterfeit goods;
- the Respondent has registered the Disputed Domain Name for the purpose of selling it to the Complainant;
- the Respondent intended to disrupt the business of the Complainant when registering the Disputed Domain Name, by creating an email address by the name of the founder of the Complainant's company.

B. Respondent

The Respondent claims that the Disputed Domain Name is not confusingly similar to a trademark in which the Complainant claims to have rights, because, according to the Respondent:

- “manga” is a dictionary word;
- the Complainant’s website is specifically targeting the French market. “Mangas” is the plural form of “manga” in French. The website linked to the Disputed Domain Name shows use of the English language. In conclusion, there isn’t a case of “typosquatting”;
- the Complainant’s trademark¹ specifically mentions “Platform for reading, translating and distributing digital manga (Japanese-inspired comics), in France and abroad”, which makes no mention of gaming;
- the Complainant doesn’t have a trademark in the United States of America, where the Respondent’s company is located.

The Respondent states that it has legitimate interests in respect of the Disputed Domain Name because it uses the Disputed Domain Name to associate it to a website dedicated to a manga game. Specifically, a manga MMORPG (“massively multiplayer online role-playing game”) with cryptocurrency and regular leagues. According to the Respondent:

- the website linked to the Disputed Domain Name shows a waitlist landing page associated with a manga game;
- the Respondent has been creating games since 2006;
- games under the “.IO” TLD are popular;
- its intentions are not to distribute comics illegally.

The Respondent further claims it has not registered and used the Disputed Domain Name in bad faith, as, according to the Respondent:

- it has never heard of the Complainant’s website until contacted by the Complainant since it doesn’t live in France, does not speak French, and has no client in France;
- it did not purchase the Disputed Domain Name with the intention to sell it to the Complainant.

According to the Respondent, the following elements prove it:

- it did not reach out to the Complainant to sell the Disputed Domain Name, the Complainant reached out to the Respondent;
- the reason it offered the Disputed Domain Name for USD 100,000 to the Complainant, after the Complainant reached out to the Respondent, was to use the money from the sale to buy the domain name <anime.io> and continue its manga game project with this domain name;
- it purchased SEO packages;
- it offered to “possibly work out a partnership” with the Complainant.
- the website linked to the Disputed Domain Name and the Complainant’s website are in different languages and provide different services, therefore it would be extremely hard to confuse them with each other, to disrupt each other, or to legitimately hurt each other’s businesses.

Finally, the Respondent claims that the Complainant was brought in an attempt at Reverse Domain Name Hijacking. According to the Respondent:

- the Complainant knowingly referenced outdated material;
- the Complainant tried to justify the Complaint by stating that the Respondent intended to sell the Disputed Domain Name while this is impossible since the Respondent never tried to reach out to the

¹ In the Panel’s view, the Respondent mistakenly refers to a trademark whereas its argument is based on a document referring to the company name of the Complainant.

Complainant;

- the Respondent was truthful and transparent with the Complainant and brought up a possibility of partnership with the Complainant;
- the Complainant tried to manipulate and coerce the Respondent to transfer the Disputed Domain Name over to the Complainant.

6. Discussion and Findings

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out his case and it is apparent, both from the terms of the Policy and the decisions of past .IO Policy panels, that the Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer the Disputed Domain Name.

Thus, for the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

- (i) The Disputed Domain Name is identical with 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 or is being used in bad faith.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights. 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. ²

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark.

The Complainant claims entitlement to rights in "MANGAS.IO" as an unregistered trademark.

To establish unregistered or common law trademark rights, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or services. Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g. consumer, industry, media) recognition, and (v) consumer surveys. In cases involving unregistered or common law marks that are comprised solely of descriptive terms which are not inherently distinctive, there is a greater onus on the complainant to present evidence of acquired distinctiveness/secondary meaning. The fact that secondary meaning may only exist in a particular geographical area or market niche does not preclude the complainant from establishing trademark rights.

²Given the similarities between the .IO Policy and Rules and the Uniform Domain Name Dispute Resolution Policy ("UDRP") and Rules, the Panel refers to UDRP precedent when considered relevant to this case.

Noting also the availability of similar protection to trademarks under certain national legal doctrines (e.g., unfair competition or passing-off) and parity considerations, where acquired distinctiveness/secondary meaning is demonstrated, unregistered rights have been held to justify standing, including where the complainant is based in a civil law jurisdiction.

Even where a panel finds that a complainant has standing based on unregistered or common law trademark rights, the strength of the complainant's mark may be considered relevant in evaluating the second and third elements. See [WIPO Overview 3.0](#), section 1.3.

Trade names and company names are protected in France under its trade practices and consumer protection law and under general tort law concerning unfair commercial practices. The Complainant proves that its company name and trade name is "MANGAS.IO".

The Panel finds that the Complainant has produced sufficient evidence to successfully assert an unregistered trademark right for the sign "MANGAS.IO" in France in the context of the present proceedings, as the Complainant has brought evidence demonstrating that:

- it started to use the mark "MANGAS.IO" in 2020 with a beta version. According to press articles provided by the Complainant, the Complainant effectively started to use the "MANGAS.IO" mark in 2021;
- it has partnerships with well-known companies in France (e.g., the French railways public service (SNCF) and McDonald's France);
- since 2021, its application "Mangas.io" has been the subject of multiple French newspaper articles, on the Internet and on television;
- to date, the Complainant's application "Mangas.io" counts 186,124 registered users;
- the popularity of its application "Mangas.io" in France is continuously growing.

The second stage of this inquiry simply requires a visual and/or aural comparison of the disputed domain name to the proven trademarks.

It is well established that where the applicable TLD and the second-level portion of the domain name in combination contain the relevant trademark, panels may consider the domain name in its entirety for purposes of assessing confusing similarity. See [WIPO Overview 3.0](#), section 1.11.3.

The Panel observes that the Disputed Domain Name incorporates the Complainant's unregistered mark MANGAS.IO in its entirety except for the letter "s". The Panel finds that the absence of one letter within the Complainant's mark does not prevent the Complainant's mark to be recognizable within the Disputed Domain Name. See [WIPO Overview 3.0](#), section 1.7.

In light of the above, the Panel considers that the Complainant has established the first requirement under the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of proof with establishing that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

As established by previous .IO Policy and UDRP panels, it is sufficient for the Complainant to make a prima facie showing that the Respondent has no rights or legitimate interests in the Disputed Domain Name in order to place the burden of production on the Respondent (see *Teradata US, Inc. v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Andrei Mititelu*, WIPO Case No. [DIO2021-0031](#); and section 2.1 of the [WIPO Overview 3.0](#)).

The Complainant claims that the Respondent has no legitimate interests in respect of the Disputed Domain Name because, according to the Complainant, the Respondent uses the Disputed Domain Name to distribute comics illegally and the Respondent cannot be commonly known by the Disputed Domain Name.

The Panel notes that the Respondent has indeed not been commonly known by the Disputed Domain Name, and that the Respondent does not seem to have acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is “Marc Lassiter”.

However, the Respondent essentially asserts that it did not target the Complainant as it had never heard of the Complainant before the Complainant contacted him and that it has a legitimate interest in respect of the Disputed Domain Name because it uses the Disputed Domain Name to associate it to a website dedicated to a multiplayer video game.

Panels have recognized that merely registering a domain name comprised of a dictionary word or phrase does not by itself automatically confer rights or legitimate interests on the respondent; panels have held that mere arguments that a domain name corresponds to a dictionary term/phrase will not necessarily suffice. In order to find rights or legitimate interests in a domain name based on its dictionary meaning, the domain name may be used (or at least demonstrably intended for such use) in connection with the relied-upon dictionary meaning and, in all events, not to trade off third-party trademark rights. See [WIPO Overview 3.0](#), section 2.10.1.

In the present case, the second-level portion of the Disputed Domain Name consists of the word “manga”. The Panel notes that the word “manga” is a dictionary word referring to Japanese comic books. According to the evidence, the Disputed Domain Name used to resolve to a website offering general content about manga and included a “Catalog” tab along with a list of manga. Whether this website included illegal or infringing content cannot be clearly determined based on the evidence provided but both Parties agree that, when contacted by the Complainant, the Respondent immediately deleted the content which the Complainant claimed was illegally distributed.³ The Respondent ultimately appears to have completely changed the website linked to the Disputed Domain Name, which currently appears to resolve to webpage permitting users to register to get early access to a multiplayer video game. In the circumstances of this case and on the balance of probabilities, the Panel does not find it sufficiently proven that the Respondent intended to use the Disputed Domain Name for illegal activity.

More importantly, the Panel finds no signs of any intention on the part of the Respondent to target the Complainant or to trade off its rights:

- the Complainant has no registered trademark including the word “manga”;
- the Complainant’s activities appear to target a French speaking audience exclusively;
- the Complainant does not appear to be active or to enjoy any particular reputation in the United States of America, where the Respondent is located;
- the Respondent’s website linked to the Disputed Domain Name appears to have always been in English.

In the Panel’s view, while it does raise a question, the fact that the Disputed Domain Name is registered under the same “.IO” TLD as the domain name used by the Complainant is insufficient by itself to conclude that the Respondent has been or is targeting the Complainant.

In view of the above, the Panel finds that the Complainant has not established the second requirement under the Policy.

³The Panel notes that the Complainant did not specifically claim rights on any content shown on the website linked to the Disputed Domain Name.

C. Registered or Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, the Complainant must prove that the Disputed Domain Name was registered in bad faith or that it is being used in bad faith.

In this case the Panel does not need to consider or decide this issue, given its decision on the second element below and the fact that a successful complaint must establish all three elements under paragraph 4(a) of the Policy.

For the sake of completeness, the Panel will nevertheless add the following:

- in the Panel's view, the Complainant does not show that the Respondent knew or should have known the Complainant or its rights when registering the Disputed Domain Name. As mentioned above, the Complainant does not appear to have rights, to be active or to enjoy any particular reputation in the United States of America, where the Respondent is located;
- the Panel finds that the Complainant cannot rely on the Respondent's offer to sell the Disputed Domain Name to claim any bad faith. The Disputed Domain Name consists of a generic (*i.e.*, dictionary) English term which may therefore have inherent value as a domain name, and it was the Complainant which initially contacted the Respondent;
- the Panel does not find sufficient proof of an impersonation attempt on the part of the Respondent on the basis of an email received by Respondent and subsequently forwarded by Respondent to Complainant. Domain names can be configured in a way enabling the holder to receive email from all possible email addresses under such domain name. Therefore, the fact that the Respondent received an email sent to an address using the first name of the Complainant's founder does not mean that the Respondent created such email address, as Complainant seems to suggest. In the Panel's view, it is more likely than not that the sender of this email mistakenly sent an email to "[first name of the Complainant's founder]@manga.io" instead of "[first name of the Complainant's founder]@mangas.io".

D. Reverse Domain Name Hijacking

The Respondent has requested a finding of Reverse Domain Name Hijacking (RDNH).

Paragraph 15(e) of the Rules provides that, if "after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding".

RDNH is furthermore defined under the Rules as "using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name". See [WIPO Overview 3.0](#), section 4.16.

Panels have consistently found that the mere lack of success of a complaint is not in itself sufficient for a finding of RDNH. In the case at hand, the Panel finds no evidence that the Complaint was brought in bad faith. The Complainant seems to have been genuinely convinced that the Respondent targeted the Complainant by the registration and/or use of a domain name similar to the one it is using. Moreover, the Panel finds that the Respondent did not clarify all relevant circumstances of the case either (e.g., why the Disputed Domain Name first resolved to a website appearing to be dedicated to the reading of mangas and later resolved to a website dedicated to a videogame).

Therefore, the Panel is unable to conclude that the Complaint was brought primarily to harass the Respondent, nor that the proceeding was commenced in bad faith (both in general in accordance with paragraph 15(e) of the Rules, and in accordance with RDNH as defined under the Rules).

The Panel therefore declines to declare that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Flip Jan Claude Petillion/

Flip Jan Claude Petillion

Presiding Panelist

/Nathalie Dreyfus/

Nathalie Dreyfus

Panelist

/Georges Nahitchevansky/

Georges Nahitchevansky

Panelist

Date: October 3, 2024