

## **ADMINISTRATIVE PANEL DECISION**

Euclid Labs, Inc. v. Host Master, 1337 Services LLC  
Case No. DME2022-0016

### **1. The Parties**

The Complainant is Euclid Labs, Inc., United States of America (“United States” or “U.S.”), represented by Fenwick & West, LLP, United States.

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

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

The disputed domain name <magiceden.me> is registered with Sarek Oy (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 13, 2022. On August 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 14, 2022, the Registry 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on September 15, 2022, 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 20, 2022.

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 27, 2022. The Center notified the Respondent by DHL courier and email. Although the DHL notification was not received by the Respondent, the notification of the complaint email does appear to have been actually received. The Panel finds that email delivery resulted in actual notice and was sufficient under Rules 2 and 10(a). In accordance with the Rules, paragraph 5(a), the due date for Response was October 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 21, 2022.

The Center appointed John Swinson, David H. Bernstein, and Willem J. H. Leppink as panelists in this matter on November 8, 2022. The Panel finds that it was properly constituted. Each member of 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 the provider of a leading online marketplace for non-fungible tokens (“NFTs”). The Complainant provides its marketplace services under the name MAGIC EDEN. This marketplace operates at the Complainant’s website at the domain name <magiceden.io>, which launched in September 2021.

The Complainant uses a logo with a stylized “ME” followed by the words MAGIC EDEN.

The disputed domain name was registered on January 8, 2022.

In March 2022, the disputed domain name resolved to a website titled MAGIC EDEN, that had a similar look and feel to the Complainant’s MAGIC EDEN website, that used the Complainant’s logo, and that appears to relate to NFTs.

At the present time, the disputed domain name does not resolve to an active website.

The Respondent did not file a Response, so little information is known about the Respondent. According to the Registrar’s records, the Respondent is located in Charlestown, Saint Kitts and Nevis.

#### **5. Parties’ Contentions**

##### **A. Complainant**

In summary, the Complainant made the following submissions:

The Complainant’s immensely popular marketplace platform and technology allows users to browse NFT collections, and access smart contracts through which users can trade NFTs, bid in NFT auctions, mint new NFTs, and play NFT-powered online games, among other related features.

The Complainant owns a pending U.S. trademark application for MAGIC EDEN, Serial No. 97249494.

Since at least as early as September 2021, the Complainant has continuously used MAGIC EDEN in commerce in the U.S., and around the world, in connection with the Complainant’s an online marketplace for NFT and other related goods and services.

The Complainant has expended significant resources in developing recognition and goodwill in its MAGIC EDEN trademark. Following the launch of marketplace, and before the Respondent registered the disputed domain name on January 8, 2022, the Complainant’s marketplace achieved an enormous level of success and notoriety in the rapidly growing NFT market. The marketplace has received extensive media coverage, starting almost immediately following its launch in September 2021, reflecting the marketplace’s rapid and widespread success. For example, in November 2021, two months before the Respondent obtained the disputed domain name, Blockonomist, a leading news website for the blockchain and cryptocurrency industry, reported that the Complainant’s marketplace had a 50% market share on the Solana blockchain platform, over USD 200 million in transaction volume, and more than 200,000 daily visitors. In late December 2021, U.S.-based cryptocurrency news website Decrypt announced that a leading cryptocurrency wallet provider, Exodus, had partnered with the Complainant to integrate the MAGIC EDEN marketplace into Exodus’ mobile app. Around the same time, a U.S. based journalist reported on cryptocurrency news site Bitcoin.com that the Complainant’s marketplace had seen USD 148.86 million in monthly sales over the last month, an 86.9% increase over the previous month.

On January 3, 2022, 5 days before the Respondent registered the disputed domain name, the U.S.-based technology news website Hacker Noon referenced the Complainant's MAGIC EDEN marketplace throughout its article "10 Solana NFT Projects You Should Know About in 2022," as one of the marketplaces where many of the highlighted NFTs were traded.

The Complainant has a significant following on social media; its Twitter account currently has over 333,800 followers.

By the time the Respondent registered the disputed domain name, the Complainant's MAGIC EDEN marketplace and website had achieved a high level of recognition among consumers in the U.S. and numerous countries around the world. During the time between when the Complainant's first used MAGIC DEN as a trademark, and when the Respondent registered the disputed domain name, over USD 493 million in trades had been conducted in the Complainant's marketplace. In early January 2022, the Complainant's MAGIC EDEN marketplace received over 326,000 unique monthly visitors.

The Complainant has common law trademark rights in MAGIC EDEN.

The disputed domain name is identical to the Complainant's MAGIC EDEN trademark, and is confusingly similar to it.

The Respondent's registration and use of the disputed domain name is unauthorized by the Complainant. The Complainant has not licensed the Respondent to use the MAGIC EDEN trademark. The Respondent is not known as MAGIC EDEN. The Respondent's website is not a *bona fide* offering of goods and services because it is a direct imitation of the Complainant's own website. Accordingly, the Complainant has made the necessary *prima facie* showing that the Respondent has no rights or legitimate interests in the disputed domain name.

The same day that the Respondent obtained the disputed domain name, the Respondent began using the disputed domain name to resolve to a website that mimicked the Complainant's own website at the domain name <magiceden.io> and incorporated the Complainant's trademarks. The website impersonated the Complainant's website by using the Complainant's MAGIC EDEN trademark and ME MAGIC EDEN Logo, imitating the exact layout and color scheme of the Complainant's website, and imitating the actual content of the Complainant's website, and promoting various NFT artwork and NFT-based games available in the Complainant's marketplace. There was nothing on the page that would make it clear to users that the disputed domain name was not operated by or not somehow affiliated with the Complainant.

The Respondent's bad faith is also evident because the Respondent has displayed a pattern of bad faith use and registration of domain names. The Respondent's pattern of bad faith conduct is demonstrated by its involvement in at least 58 prior proceedings under the Policy, including 37 proceedings before WIPO, in which a panel found that the Respondent engaged in bad faith registration of domain names. Many of these proceedings involved circumstances nearly identical to this case, where the Respondent registered a domain name containing a third-party trademark, and in some cases, used the domain name to direct to a website that borrowed content from the complainant's website.

A finding of bad faith is also appropriate here because the Respondent's unauthorized registration and use of the disputed domain name prevents the Complainant from registering and using the disputed domain name. Companies routinely purchase domain names consisting entirely of their trademarks, so it is reasonable for the relevant public to believe that the disputed domain name would resolve to a website owned or operated by the Complainant.

## **B. Respondent**

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a Response as it considers appropriate.

### 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, trademark rights of the Complainant.

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

The Complainant does not have any registered trademarks. Instead, the Complainant rely on common law trademark rights. It is well-established that unregistered trademarks can qualify as trademark rights for the purposes of the Policy.

The Complainant provided sufficient detail, summarized above in section 5A, to demonstrate common law rights in MAGIC EDEN for purposes of the Policy.

The disputed domain name includes the Complainant's MAGIC EDEN trademark in its entirety.

The Panel accordingly concludes that the disputed domain name is identical to the Complainant's MAGIC EDEN trademark, disregarding the country code Top-Level Domain ".me".

The fact that the Respondent is targeting the Complainant's trademark (as discussed below) supports the Complainant's position, in that this assists in demonstrating that its trademark has achieved significance as a source identifier.

The Complainant succeeds on the first element of the Policy in relation to the disputed domain name.

### B. Rights or Legitimate Interests

The Respondent registered the disputed domain name soon after the Complainant first started using the MAGIC EDEN trademark.

The Complainant asserts that the Respondent's registration and use of the disputed domain name is unauthorized by the Complainant, that the Complainant has not licensed the Respondent to use the MAGIC EDEN trademark, and that the Respondent is not known as MAGIC EDEN. The Complainant also alleges that the Respondent's website is not a *bona fide* offering of goods and services because it is a direct imitation of the Complainant's own website.

The Complainant has established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name and thereby the burden of production shifts to the

Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name.

The Respondent has failed to produce any evidence to establish his rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that none of the circumstances listed in paragraph 4(c) of the Policy apply in the present circumstances, and that the Complainant succeeds on the second element of the Policy in relation to the disputed domain name.

### **C. Registered and Used in Bad Faith**

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

The Respondent's conduct demonstrates the Respondent's knowledge of the Complainant and its trademark. The Respondent is using the Complainant's MAGIC EDEN trademark and MAGIC EDEN logo on a website that relates to NFTs and that has a very similar design to the Complainant's website. The Respondent's website is a probable attempt to create a likelihood of confusion with the Complainant.

The Panel concludes that the Respondent specifically knew of and targeted the Complainant and that the Respondent is attempting to trick the public into believing that the Respondent is associated with the Complainant. In short, the Panel concludes that the Respondent registered and is using the disputed domain name to take advantage of the Complainant's MAGIC EDEN trademark. *Block.one v. See PrivacyGuardian.org / Burstein-Applebee, Jerry K. Chasteen*, WIPO Case No. [D2021-1516](#).

Accordingly, the Panel finds that paragraph 4(b)(iv) of the Policy applies in the present case.

The Panel notes, but does not need to rely upon, the Respondent's involvement in many prior proceedings under the UDRP, where the Respondent was unsuccessful and in which a panel found that the Respondent had engaged in bad faith registration of domain names. See, e.g., *Linklaters LLP v. Host Master, 1337 Services LLC*, WIPO Case No. [D2022-2976](#); *Rachio, Inc., v. Host Master, 1337 Services LLC*, WIPO Case No. [D2022-2751](#); and *Silver Lake Management L.L.C. v. Host Master, 1337 Services LLC*, WIPO Case No. [D2022-2746](#).

The Complainant succeeds on the third element of the Policy in relation to the disputed domain name.

## **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 <magiceden.me> be transferred to the Complainant.

*/John Swinson/*  
**John Swinson**  
Presiding Panelist

*/David H. Bernstein/*  
**David H. Bernstein**  
Panelist

*/Willem J. H. Leppink/*  
**Willem J. H. Leppink**  
Panelist

Date: November 22, 2022