

## **ADMINISTRATIVE PANEL DECISION**

Sfanti Grup Solutions SRL v. Trafe Hamilton  
Case No. DME2023-0021

### **1. The Parties**

Complainant is Sfanti Grup Solutions SRL c/o Walters Law Group, United States of America.

Respondent is Trafe Hamilton, United States of America.

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

The disputed domain name <megapersonal.me> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 28, 2023. On January 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 2, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on January 3, 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 January 3, 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 January 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 1, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 5, 2024.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on February 8, 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**

Complainant, based in the United States of America, provides Internet-based social introduction and dating services through its websites located at <megapersonals.com> and <megapersonals.eu>. The domain name <megapersonals.com> has been registered since June 12, 2003, and in use since March 30, 2004, while <megapersonals.eu> has been in use since January 29, 2020. Since 2020, the domain name <megapersonals.com> has redirected to <megapersonals.eu>.

In addition, Complainant owns United States of America registered trademark number 6,432,591 for MEGAPERSONALS word mark, registered on July 27, 2021.

The Domain Name was registered on August 4, 2023, and at the time of the filing of the Complaint, directed to a website that offered social introduction and dating services in competition with Complainant's services.

Complainant sent a cease-and-desist letter to Respondent on September 27, 2023, explaining its intellectual property rights, requesting Respondent to stop using the Domain Name and to transfer the Domain Name to Complainant. Respondent did not respond. Complainant then filed the current Complaint.

#### **5. Parties' Contentions**

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

Complainant contends that (i) the Domain Name is identical or confusingly similar to Complainant's trademark; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for MEGAPERSONALS, and that Respondent registered and is using the Domain Name with the intention to divert Internet traffic to Complainant's competitors.

Complainant notes that it has no affiliation with Respondent. Complainant further contends that Respondent is using the Domain Name to deceive Internet users who would expect to find a website that is affiliated with or sponsored by Complainant, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Further, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and

(iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case, Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

#### **A. Identical or Confusingly Similar**

Ownership of a trademark registration prima facie satisfies that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence of its rights in the MEGAPERSONALS trademarks, as noted above under section 4. Complainant has also submitted evidence which supports that the MEGAPERSONALS trademarks are widely known and a distinctive identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the MEGAPERSONALS trademarks.

With Complainant's rights in the MEGAPERSONALS trademarks established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case is, ".me"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is confusingly similar to Complainant's MEGAPERSONALS trademarks. The use of Complainant's trademark in its entirety, with the absence of the letter "s", does not prevent a finding of confusing similarity between the Domain Name and the MEGAPERSONALS mark as it is recognizable in the Domain Name. [WIPO Overview 3.0](#), section 1.7.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

#### **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes out such a prima facie showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent does not have any rights or legitimate interests in the Domain Name. In addition, Complainant asserts that Respondent is not an authorized reseller and is not related to Complainant. Respondent is also not known to be associated with the MEGAPERSONALS trademark and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, at the time of the filing of the Complaint, the Domain Name reverted to a webpage that attempted to imitate Complainant's MEGAPERSONALS trademark and provided links to third party websites that are in direct competition with Complainant's social introduction and dating services. One of those third party sites appears to provide adult content. Such use does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use and

cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Accordingly, Complainant has provided evidence supporting its prima facie claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name, reinforcing the notion that Respondent was not using the Domain Name in connection with a bona fide offering.

Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name, and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

The Panel finds that Complainant has provided ample evidence to show that registration and use of the MEGAPERSONALS trademarks predate the registration of the Domain Name. Complainant is also established and known. In addition, the use of Complainant's trademark in the Domain Name is directly related to Complainant's business activities, and the website at the Domain Name displays Complainant's MEGAPERSONALS trademark. Therefore, Respondent was aware of the MEGAPERSONALS trademarks when it registered the Domain Name. See [WIPO Overview 3.0](#), section 3.2.2; and see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, Complainant's MEGAPERSONALS trademark is recognizable in the Domain Name, which suggests Respondent's actual knowledge of Complainant's rights in the MEGAPERSONALS trademarks at the time of registration of the Domain Name and its effort to opportunistically capitalize on the registration and use of the Domain Name.

Moreover, Respondent registered and is using the Domain Name to confuse and mislead consumers looking for bona fide and well-known MEGAPERSONALS products and services of Complainant or authorized partners of Complainant. In particular, the evidence provided by Complainant indicates that the Domain Name reverts to a website which features Complainant's MEGAPERSONALS word mark and provided links to third party websites that provide services in direct competition to Complainant's social introduction and dating services. The use of the MEGAPERSONALS mark in the Domain Name is intended to capture Internet traffic from Internet users who are looking for Complainant's services. Therefore, by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's webpage by creating a likelihood of confusion with Complainant's MEGAPERSONALS marks as to the source, sponsorship, affiliation, or endorsement of Respondent's website.

Finally, the Panel also notes the failure of Respondent to submit a response to the cease and desist letter and to the Complaint, or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good-faith use to which the Domain Name may be put.

Accordingly, the Panel finds that Respondent registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Name <megapersonal.me> be transferred to Complainant.

*/Kimberley Chen Nobles/*

**Kimberley Chen Nobles**

Sole Panelist

Date: February 22, 2024