

## **ADMINISTRATIVE PANEL DECISION**

Mav Media, LLC v. AMF AMF

Case No. D2022-3884

### **1. The Parties**

The Complainant is Mav Media, LLC, United States of America (“United States”), represented by Silverstein Legal, United States.

The Respondent is AMF AMF, United States.

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

The disputed domain name <dirryroulette.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 17, 2022. On October 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 19, 2022, 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 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 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2022. On October 25, 2022, and November 8, 11, and 23, 2022, a third party email sent email communications to the Center claiming no affiliation to the disputed domain name or the disclosed Respondent. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 15, 2022.

The Center appointed William F. Hamilton as the sole panelist in this matter on November 21, 2022. 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.

On November 23, 2022, the Center received a communication from the Respondent wherein the Respondent purported to offer to transfer the disputed domain name to the Complainant. The Respondent further stated that the Respondent “did not know this domain was under some sort of trademark.” The Panel has determined to proceed with this case given the clear finding of bad faith registration and use of the disputed domain name by the Respondent discussed below in Section 5. The Panel further lacks confidence that a settlement transfer will be timely and effectively accomplished by the Respondent. The Panel notes that notwithstanding the Respondent’s offer and disclaimer of innocence, the Respondent did not immediately suspend the use of the disputed domain name and the disputed domain name continues to resolve to pornographic websites.

#### **4. Factual Background**

The Complainant operates an adult-themed video chat platform. The Complainant owns the domain <dirtyroulette.com>.

The Complainant owns Registration No. 5,109,884 with the United States Patent and Trademark Office dated December 27, 2016, for the trademark DIRTYROULETTE (the “Mark”).

The disputed domain name was registered on September 4, 2018. The disputed domain name resolves through redirection to a rotating set of pornographic websites.

#### **5. Parties’ Contentions**

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

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name incorporates the Mark in its entirety with the exception of changing a letter “t” in the Mark to the letter “r”.

The Complainant asserts that the Complainant never authorized the Respondent to use the Mark or the disputed domain name, that the Respondent is not generally known by the disputed domain name, and that the Respondent has never engaged in any *bona fide* commercial activity in connection with the Mark or the disputed domain name.

The Complainant asserts that the disputed domain name was registered to lure and direct unsuspecting Internet users who have innocently and inadvertently mistyped the Complainant’s domain name to the Respondent’s website, which redirects the mistaken Internet user to various pornographic websites.

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

The Respondent did not formally reply to the Complainant’s contentions, however sent an email communication to the Center, as discussed above under “3. Procedural History”.

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

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

(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 was registered and is being used in bad faith.

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

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark.

The disputed domain name adopts the Mark in its entirety except for changing a "t" in the Mark to an "r". Notably, the letters "t" and "r" are adjacent to one another on the standard computer keyboard. A domain name which consists of a common, obvious, or intentional misspelling of a trademark, often referred to as "typosquatting," is confusingly similar to the relevant mark for purposes of the first element. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9.

The generic Top-Level Domain of the disputed domain name, in this case ".com", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1. *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#) (transferring <monsterenergy.world>).

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

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

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. The Respondent is not affiliated with the Complainant and does not have any business relationship with the Complainant. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name.

The Complainant has thus established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name.

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following scenarios:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name 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 the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has 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 the respondent has engaged in a pattern of such conduct; or

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

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or

location or of a product or service on the respondent's website or location.

The Panel finds the disputed domain name was registered and is being used in bad faith.

There is little doubt that the Respondent was aware of the Complainant's Mark when registering the disputed domain name. The Respondent's scheme is obvious. The Respondent's disputed domain name was designed to drive Internet users who made a simple typing mistake when seeking adult-themed video chats on the Complainant's website to the disputed domain name's rotating pornographic websites.

The registration of a domain name that is confusing similar to a registered trademark by virtue of minor typographic differences, as is the case here, creates the presumption of bad faith. The Respondent registered and used the disputed domain name in bad faith to land unsuspecting Internet users who inadvertently misspelled the Complainant's established Mark at one of the Respondent's rotating pornographic websites.

The Complainant has met its burden under 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 <dirryroulette.com> be transferred to the Complainant.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: December 5, 2022