

ADMINISTRATIVE PANEL DECISION

HDR Global Trading Limited v. Crike David

Case No. D2023-1432

1. The Parties

The Complainant is HDR Global Trading Limited, Seychelles, represented by Snell & Wilmer L.L.P, United States of America (“United States”).

The Respondent is Crike David, United States.

2. The Domain Names and Registrar

The disputed domain names <bitmexa1.com>, <bitmexa10.com>, <bitmexa11.com>, <bitmexa12.com>, <bitmexa13.com>, <bitmexa14.com>, <bitmexa15.com>, <bitmexa16.com>, <bitmexa17.com>, <bitmexa18.com>, <bitmexa19.com>, <bitmexa2.com>, <bitmexa20.com>, <bitmexa21.com>, <bitmexa22.com>, <bitmexa23.com>, <bitmexa24.com>, <bitmexa25.com>, <bitmexa26.com>, <bitmexa27.com>, <bitmexa28.com>, <bitmexa29.com>, <bitmexa3.com>, <bitmexa30.com>, <bitmexa31.com>, <bitmexa32.com>, <bitmexa33.com>, <bitmexa34.com>, <bitmexa35.com>, <bitmexa36.com>, <bitmexa37.com>, <bitmexa38.com>, <bitmexa39.com>, <bitmexa4.com>, <bitmexa40.com>, <bitmexa41.com>, <bitmexa42.com>, <bitmexa43.com>, <bitmexa44.com>, <bitmexa45.com>, <bitmexa46.com>, <bitmexa47.com>, <bitmexa48.com>, <bitmexa49.com>, <bitmexa5.com>, <bitmexa50.com>, <bitmexa51.com>, <bitmexa52.com>, <bitmexa53.com>, <bitmexa54.com>, <bitmexa55.com>, <bitmexa56.com>, <bitmexa57.com>, <bitmexa58.com>, <bitmexa59.com>, <bitmexa6.com>, <bitmexa60.com>, <bitmexa61.com>, <bitmexa62.com>, <bitmexa63.com>, <bitmexa64.com>, <bitmexa65.com>, <bitmexa66.com>, <bitmexa67.com>, <bitmexa68.com>, <bitmexa69.com>, <bitmexa7.com>, <bitmexa70.com>, <bitmexa71.com>, <bitmexa72.com>, <bitmexa73.com>, <bitmexa74.com>, <bitmexa75.com>, <bitmexa76.com>, <bitmexa77.com>, <bitmexa78.com>, <bitmexa79.com>, <bitmexa8.com>, <bitmexa80.com>, <bitmexa81.com>, <bitmexa82.com>, <bitmexa83.com>, <bitmexa9.com>, <bitmexb1.com>, <bitmexb10.com>, <bitmexb11.com>, <bitmexb12.com>, <bitmexb13.com>, <bitmexb14.com>, <bitmexb15.com>, <bitmexb16.com>, <bitmexb17.com>, <bitmexb18.com>, <bitmexb19.com>, <bitmexb2.com>, <bitmexb20.com>, <bitmexb21.com>, <bitmexb22.com>, <bitmexb23.com>, <bitmexb24.com>, <bitmexb25.com>, <bitmexb26.com>, <bitmexb27.com>, <bitmexb28.com>, <bitmexb29.com>, <bitmexb3.com>, <bitmexb30.com>, <bitmexb31.com>, <bitmexb32.com>, <bitmexb33.com>, <bitmexb34.com>, <bitmexb35.com>, <bitmexb36.com>, <bitmexb37.com>, <bitmexb38.com>, <bitmexb39.com>, <bitmexb4.com>, <bitmexb40.com>, <bitmexb5.com>, <bitmexb6.com>, <bitmexb7.com>, <bitmexb8.com>, and <bitmexb9.com> are registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 3, 2023. On April 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 4, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (N/A) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 6, 2023, 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 April 7, 2023.

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 April 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 5, 2023.

The Center appointed Luca Barbero as the sole panelist in this matter on May 25, 2023. 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 was founded in 2014 and operates a cryptocurrency trading platform at <bitmex.com>, available in six languages and offering premier financial trading services in the field of digitized assets and cryptocurrencies.

The Complainant’s wholly owned subsidiary HDR SG PTE. LTD is the owner of several trademark registrations for BITMEX, including the following:

- International trademark registration No. 1514704 for BITMEX (figurative mark), registered on October 10, 2019, in classes 9 and 36;
- European Union Trade Mark registration No. 016462327 for BITMEX (word mark), filed on March 14, 2017 and registered on August 11, 2017, in class 36;
- Chinese trademark registration No. 23148680 for BITMEX (figurative mark), filed on March 15, 2017 and registered on August 14, 2019, in class 36;
- United Kingdom trademark registration No. UK00003218498 for BITMEX (word mark), filed on March 14, 2017 and registered on June 2, 2017, in class 36; and
- United Kingdom trademark registration No. UK00003390977 for BITMEX (figurative mark), filed on April 10, 2019 and registered on June 28, 2019, in classes 9 and 36.

The 123 disputed domain names were registered between July 22, 2022 and August 04, 2022, and resolve to inactive websites.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the trademark BITMEX in which the Complainant has rights as they reproduce the trademark in its entirety with the mere addition of letters and numbers following a distinct alphabetical and numerical pattern (<bitmexa1.com> through <bitmexa83.com> and <bitmexb1.com> through <bitmexb40.com>), all followed by the generic Top-Level Domain (gTLD) “.com”.

The Complainant submits that the addition of letters and numbers as well as of the suffix “.com” is insufficient to avoid a finding of confusing similarity between the disputed domain names and the Complainant's trademark BITMEX.

With reference to rights or legitimate interests in respect of the disputed domain names, the Complainant states that the Respondent is not sponsored or endorsed by the Complainant, and the Complainant has never authorized or licensed the Respondent to use the Complainant's trademark BITMEX.

The Complainant also states that the Respondent is not using the disputed domain names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use, as the disputed domain names all resolve to inactive webpages. The Complainant further submits that the Respondent is not commonly known by the disputed domain names since the Respondent holds no legal rights in BITMEX and is not identified as “Bitmex” even in the Whois records.

With reference to the circumstances evidencing bad faith, the Complainant indicates that the Respondent registered the disputed domain names to capitalize on the goodwill associated with the Complainant's rights in the trademark BITMEX, by attempting to confuse consumers as to the source and/or ownership of the disputed domain names, whilst seeking to exploit the Complainant's success by registering the disputed domain names years after the Complainant acquired rights in the trademark BITMEX and years after the Complainant began building its cryptocurrency trading platform under that trademark.

The Complainant further submits that, considering the pattern of registrations using the Complainant's registered trademark, the Respondent had actual knowledge of the Complainant and registered the disputed domain names in bad faith.

The Complainant also states that the direction of the disputed domain names to inactive websites does not prevent a finding of bad faith and that the Respondent engaged in a pattern of abusive domain name registrations according to paragraph 4(b)(ii) of the Policy.

Lastly, the Complainant submits that the Respondent's use of a Whois privacy service and its failure to reply to the Complainant's cease and desist letter are clear evidence of bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

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

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark BITMEX based on the trademark registrations cited under section 4 above, registered in the name of the Complainant's fully owned subsidiary HDR SG PTE. LTD, and the related trademark registration certificates submitted as Annexes 1 through 5 to the Complaint.

Indeed, as stated in section 1.4.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), a trademark owner's affiliate such as a parent company is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint.

Moreover, as highlighted in section 1.7 of the [WIPO Overview 3.0](#), the first element functions primarily as a standing requirement, and the threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the trademark is recognizable within the disputed domain name.

The Panel also finds that the addition to the Complainant's trademark BITMEX of the letters "a" or "b", and of the numbers do not prevent a finding of confusing similarity.

It is well established that, where the relevant trademark is recognizable within the disputed domain names, the addition of other terms or even letters or numbers does not prevent a finding of confusing similarity under the first element. See sections 1.8 and 1.9 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Complainant has proven that the disputed domain names are confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

It is well established that the burden of proof lies on the Complainant. However, satisfying the burden of proving a lack of the Respondent's rights or legitimate interests in respect of the disputed domain names according to paragraph 4(a)(ii) of the Policy is potentially onerous, since proving a negative can be difficult considering such information is often primarily within the knowledge or control of the Respondent.

Accordingly, in line with previous UDRP decisions, it is sufficient that the Complainant show a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names in order to shift the burden of production on the Respondent. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain names in accordance with paragraph 4(c) of the Policy or on any other basis, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Panel finds that the Complainant has made a *prima facie* case and that the Respondent, by not having submitted a Response, has failed to demonstrate rights or legitimate interests in the disputed domain names in accordance with paragraph 4(c) of the Policy for the following reasons.

According to the evidence on record, there is no relationship between the Complainant and the Respondent and the Complainant has not authorized the Respondent to register or use its trademark or the disputed domain names. Moreover, there is no element from which the Panel could infer a Respondent's right over

the disputed domain names, or that the Respondent might be commonly known by the disputed domain names. Furthermore, there is no evidence of use of the disputed domain names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

Indeed, the 123 disputed domain names are all pointed to inactive websites, *i.e.*, are passively held. In view of the Respondent's default, the Panel shares the view held in *Teachers Insurance and Annuity Association of America v. Wreaks Communications Group*, WIPO Case No. [D2006-0483](#), where the Panel found that, absent some contrary evidence from the Respondent, passive holding of a domain name does not constitute legitimate noncommercial or fair use. See also *Euromarket Designs, Inc. v. Domain For Sale VMI*, WIPO Case No. [D2000-1195](#).

Therefore, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in the disputed domain names according to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain names were registered and are being used by the Respondent in bad faith.

As to bad faith at the time of the registration, the Panel finds that, in light of i) the prior registration and use of the Complainant's trademark BITMEX in connection with the Complainant's trading platform available at the domain name <bitmex.com>, ii) the well known character of the trademark in its sector, and iii) the confusing similarity of the disputed domain names with the Complainant's trademark, the Respondent very likely registered the disputed domain names having the Complainant's trademark in mind.

As to the use of the disputed domain names, the Panel notes that all of them resolve to inactive websites. Prior UDRP panels have found that the passive holding of a domain name does not prevent a finding of bad faith under certain circumstances, as decided, *i.a.*, in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

In the case at hand, in view of i) the distinctiveness and reputation of the Complainant's trademark BITMEX; ii) the Respondent's registration of 123 disputed domain names confusingly similar to the Complainant's prior trademark; iii) the absence of any documented rights or legitimate interests of the Respondent in the disputed domain names; iv) the Respondent's failure to respond to the Complainant's cease and desist letter and to the Complaint; and v) the implausibility of any good faith use to which the disputed domain names may be put, the Panel finds that the current passive holding of the disputed domain names by the Respondent does not prevent a finding of bad faith registration and use. See section 3.3 of the [WIPO Overview 3.0](#).

The Panel also finds paragraph 4(b)(ii) of the Policy applicable in this case as the Respondent has registered the disputed domain names in order to prevent the Complainant from reflecting its trademark in corresponding disputed domain names and has engaged in a pattern of such conduct since it registered 123 disputed domain names incorporating the Complainant's trademark BITMEX. As found in *Telstra Corporation Limited v. Ozurls*, WIPO Case No. [D2001-0046](#); and *Revlon Consumer Products Corporation v. Domain Manager, PageUp Communications*, WIPO Case No. [D2003-0602](#), a pattern of conduct as required in paragraph 4b(ii) of the Policy typically involves multiple domain names directed against multiple complainants but may involve multiple domain names directed against a single complainant.

See section 3.1.2 of the [WIPO Overview 3.0](#), "UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration. This may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same brand owner".

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and is using the disputed domain names in bad faith according to 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 names <bitmexa1.com>, <bitmexa10.com>, <bitmexa11.com>, <bitmexa12.com>, <bitmexa13.com>, <bitmexa14.com>, <bitmexa15.com>, <bitmexa16.com>, <bitmexa17.com>, <bitmexa18.com>, <bitmexa19.com>, <bitmexa2.com>, <bitmexa20.com>, <bitmexa21.com>, <bitmexa22.com>, <bitmexa23.com>, <bitmexa24.com>, <bitmexa25.com>, <bitmexa26.com>, <bitmexa27.com>, <bitmexa28.com>, <bitmexa29.com>, <bitmexa3.com>, <bitmexa30.com>, <bitmexa31.com>, <bitmexa32.com>, <bitmexa33.com>, <bitmexa34.com>, <bitmexa35.com>, <bitmexa36.com>, <bitmexa37.com>, <bitmexa38.com>, <bitmexa39.com>, <bitmexa4.com>, <bitmexa40.com>, <bitmexa41.com>, <bitmexa42.com>, <bitmexa43.com>, <bitmexa44.com>, <bitmexa45.com>, <bitmexa46.com>, <bitmexa47.com>, <bitmexa48.com>, <bitmexa49.com>, <bitmexa5.com>, <bitmexa50.com>, <bitmexa51.com>, <bitmexa52.com>, <bitmexa53.com>, <bitmexa54.com>, <bitmexa55.com>, <bitmexa56.com>, <bitmexa57.com>, <bitmexa58.com>, <bitmexa59.com>, <bitmexa6.com>, <bitmexa60.com>, <bitmexa61.com>, <bitmexa62.com>, <bitmexa63.com>, <bitmexa64.com>, <bitmexa65.com>, <bitmexa66.com>, <bitmexa67.com>, <bitmexa68.com>, <bitmexa69.com>, <bitmexa7.com>, <bitmexa70.com>, <bitmexa71.com>, <bitmexa72.com>, <bitmexa73.com>, <bitmexa74.com>, <bitmexa75.com>, <bitmexa76.com>, <bitmexa77.com>, <bitmexa78.com>, <bitmexa79.com>, <bitmexa8.com>, <bitmexa80.com>, <bitmexa81.com>, <bitmexa82.com>, <bitmexa83.com>, <bitmexa9.com>, <bitmexb1.com>, <bitmexb10.com>, <bitmexb11.com>, <bitmexb12.com>, <bitmexb13.com>, <bitmexb14.com>, <bitmexb15.com>, <bitmexb16.com>, <bitmexb17.com>, <bitmexb18.com>, <bitmexb19.com>, <bitmexb2.com>, <bitmexb20.com>, <bitmexb21.com>, <bitmexb22.com>, <bitmexb23.com>, <bitmexb24.com>, <bitmexb25.com>, <bitmexb26.com>, <bitmexb27.com>, <bitmexb28.com>, <bitmexb29.com>, <bitmexb3.com>, <bitmexb30.com>, <bitmexb31.com>, <bitmexb32.com>, <bitmexb33.com>, <bitmexb34.com>, <bitmexb35.com>, <bitmexb36.com>, <bitmexb37.com>, <bitmexb38.com>, <bitmexb39.com>, <bitmexb4.com>, <bitmexb40.com>, <bitmexb5.com>, <bitmexb6.com>, <bitmexb7.com>, <bitmexb8.com>, and <bitmexb9.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: June 12, 2023