

## **ADMINISTRATIVE PANEL DECISION**

Moelis & Company v. Privacy Service provided by Withheld for Privacy ehf /  
Cornelius Simeon  
Case No. D2022-0640

### **1. The Parties**

The Complainant is Moelis & Company, United States of America (“United States”), represented by Soteria LLC, United States.

The Respondent is Privacy Service provided by Withheld for Privacy ehf, Iceland / Cornelius Simeon, Nigeria.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 23, 2022. On February 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 25, 2022, the Registrar 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 February 25, 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 the same day. In response to a notification by the Center that the Complaint was administratively deficient, the Complainant filed an amended Complaint on March 8, 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 March 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 30, 2022.

The Center appointed Adam Taylor as the sole panelist in this matter on April 4, 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.

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

The Complainant is a global investment bank that trades under the name “Moelis & Company”.

The Complainant owns various trade marks for MOELIS & COMPANY including United States trade mark no. 4904062, filed on March 31, 2015, registered on February 23, 2016, in classes 35 and 36.

The disputed domain name was registered on August 3, 2021.

The disputed domain name was used for a website branded with a “MOELIS fx” logo and which described itself as a cryptocurrency platform purportedly operated by “Moelis & Company [...] a leading global independent investment company [...]”

On February 22, 2022, the Complainant received a query from an Internet user who had interacted with the Respondent’s website and was seeking confirmation that the platform was operated by the Complainant. The Internet user had received messages purportedly from “M&C” advising how to make payments to the platform.

#### **5. Parties’ Contentions**

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

The following is a summary of the Complainant’s contentions.

The disputed domain name is misleadingly similar to the Complainant’s name and trade mark MOELIS & COMPANY, as it incorporates the most dominant feature of the trade mark, *i.e.* the word “Moelis”.

The Respondent lacks rights in respect of the disputed domain name, which was registered and used in bad faith.

The Complainant has not authorised the owner of the disputed domain name to use its mark and has no connection with this person.

The Respondent is maliciously using the disputed domain name, as well as the Complainant’s trade mark MOELIS & COMPANY, to scam victims by falsely advertising the disputed domain name as a cryptocurrency platform.

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

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

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

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

- the disputed domain name has been registered and is being used in bad faith.

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

The Complainant has established rights in the mark MOELIS & COMPANY by virtue of its registered trade marks.

Section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") makes clear that the first element functions primarily as a standing requirement. Where at least a dominant feature of the relevant mark is recognisable in the disputed domain name, it will normally be considered confusingly similar to that mark for purposes of UDRP standing.

Section 1.8 of [WIPO Overview 3.0](#) adds that, where the relevant trade mark is recognisable within the disputed domain name, the addition of other terms, whether descriptive or otherwise, would not prevent a finding of confusing similarity under the first element.

Here, the dominant feature of the Complainant's trade mark, namely the word "Moelis", is readily recognisable within the disputed domain name and the addition of the term "fx", denoting "foreign exchange", does not prevent a finding of confusing similarity.

For the above reasons, the Panel concludes that the Complainant has established the first element of paragraph 4(a) of the Policy.

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

As explained in section 2.1 of [WIPO Overview 3.0](#), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, for reasons explained below the Panel considers that the Respondent has used the disputed domain name to impersonate the Complainant for fraudulent purposes. Such use of the disputed domain name could not be said to be *bona fide*.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy apply in the circumstances of this case.

The Panel finds that the Complainant has established a *prima facie* case of lack of rights or legitimate interests and there is no rebuttal by the Respondent.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 4(a) of the Policy.

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

The Respondent has used the disputed domain name to promote a purported cryptocurrency platform allegedly operated by the Complainant, including use of the Complainant's exact name and trade mark MOELIS & COMPANY. Furthermore, there is evidence that at least one prospective investor assumed that the website was indeed connected with the Complainant.

Given the evidence of use of the disputed domain name to impersonate the Complainant for what is plainly a fraudulent purpose, the Panel readily concludes that the disputed domain name was registered and is being used in bad faith by the Respondent.

For the above reasons, the Panel considers that the Complainant has established 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 disputed domain name, <moelisfx.com>, be transferred to the Complainant.

*/Adam Taylor/*

**Adam Taylor**

Sole Panelist

Date: April 18, 2022