

ADMINISTRATIVE PANEL DECISION

Meow Wolf, Inc. v. Nick Ramirez, Talk Abot Wireless / Brody Rios, NET4000
Case No. D2022-3354

1. The Parties

The Complainant is Meow Wolf, Inc., United States of America (“United States”), represented by Hand Baldachin & Associates LLP, United States.

The Respondents are Nick Ramirez, Talk Abot Wireless, United States and Brody Rios, NET4000, United States.

2. The Domain Names and Registrars

The disputed domain name <meowwolftickets.com> is registered with GoDaddy.com, LLC (the “first Registrar”).

The disputed domain name <ticketsmeowwolf.com> is registered with Google LLC (the “second Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 8, 2022. On September 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 9, 2022, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Contact Privacy Inc. Customer 7151571251, Canada and Domains by Proxy, LLC, United States) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 12, 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 amended Complaints on September 14 and 15, 2022 and October 11, 2022.

The Center verified that the Complaint together with the amended Complaints 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 Respondents of the Complaint, and the proceedings commenced on September 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 6, 2022. The Response was filed with the Center on October 6, 2022.

The Center appointed Evan D. Brown as the sole panelist in this matter on October 18, 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 an arts and entertainment company that creates immersive and interactive experiences. These experiences are available through the purchase of tickets done in part through the Complainant's website. It owns the trademark MEOOW WOLF for which it enjoys the benefits of registration in the United States (Reg. No. 4,090,514, registered on January 24, 2012).

According to the Whois records, the disputed domain name <ticketsmeowwolf.com> was registered on December 26, 2017, and the disputed domain name <meowwolftickets.com> was registered on January 4, 2018. The Respondents have used the disputed domain names to set up two similar websites, each containing the moniker "BUY TICKETS DOT COM" in their respective headers, and each purporting to offer tickets for sale online. The website at <ticketsmeowwolf.com> purports to offer tickets for events at the Complainant's venue, but also includes a search field enabling users to search for other venues, performers and events, and contains links to various other venues. The website at <meowwolftickets.com> does not appear to offer tickets relating to the Complainant, but purports to offer tickets to shows by famous artists at other venues.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are identical or confusingly similar to the Complainant's trademark; that the Respondents have no rights or legitimate interests in respect of the disputed domain names; and that the disputed domain names were registered and are being used in bad faith.

B. Respondent

The Response asserts that:

- The websites operate a marketplace and thereby serves as an intermediary between buyers and ticket sellers.
- The websites at the disputed domain names clearly state in the relevant site policies that they are being used in connection with a resale marketplace and not by the ticket seller.
- The disputed domain names are not being used for a competing business or service, but are simply providing a service for individuals that cannot attend or are unable to use event tickets to have a marketplace to re-sell tickets easily and safely.
- The Complainant uses "odd or suspicious domains that could be seen as a confusing or deceptive link by an end user".

- The disputed domain names have been used for several years and there has not been any confusion in the marketplace.
- The Complainant could have registered the disputed domain names when it first sought trademark protection but chose not to.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (ii) the Respondents have no rights or legitimate interests in respect of the disputed domain names, and (iii) the disputed domain names have been registered and are being used in bad faith. The Panel finds that all three of these elements have been met in this case.

A. Procedural Issue: Consolidation of Multiple Respondents

There are two named Respondents. The Complainant requests that both be consolidated into this matter. Consolidation is proper, so the Complainant's request for consolidation is granted.

Paragraph 10(e) of the Rules states that a "[p]anel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules". Paragraph 10(c) of the Rules provides, in relevant part, that "the [p]anel shall ensure that the administrative proceeding takes place with due expedition". Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") summarizes the consensus view of UDRP panels on the consolidation of multiple respondents and provides that where a complaint is filed against multiple respondents, panels consider whether the domain names or corresponding websites are subject to common control, and whether the consolidation would be fair and equitable to all parties.

The record indicates the disputed domain names are under common control. In particular, both disputed domain names were registered with the same email address, identified in the registrant contact details. Moreover, the named Respondents have not presented any arguments as to why consolidation would be unfair or inequitable, but rather have provided a single Response with reference to both disputed domain names.

Accordingly, conditions for proper consolidation of the disputed domain names into one matter are present here. The Panel will accordingly refer to the Respondents jointly as the "Respondent" below.

B. Identical or Confusingly Similar

This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain names are identical or confusingly similar to that mark. This element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the MEOW WOLF mark by providing evidence of its trademark registrations.

The disputed domain names incorporate the MEOW WOLF mark in its entirety with the term "tickets", which does not prevent a finding of confusing similarity between the disputed domain names and the Complainant's MEOW WOLF mark. See [WIPO Overview 3.0](#), section 1.8. The MEOW WOLF mark remains sufficiently recognizable for a showing of confusing similarity under the Policy.

Accordingly, the Complainant has established this first element under the Policy.

C. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain names. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant).

On this point, the Complainant asserts, among other things, that: (1) it has not authorized the Respondent to use the MEOW WOLF mark in the disputed domain names, (2) the Respondent has not been known by the disputed domain names, and (3) the Respondent has not used the disputed domain names in connection with any *bona fide* offering of goods or services. Instead, the Respondent has used the disputed domain names to establish a websites that purport to offer tickets, including at the Complainant's location.

UDRP panels have recognized that website operators using a domain name containing a complainant's trademark to undertake sales related to the complainant's goods or services may be making a *bona fide* offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "*Oki Data* test" (set forth in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)), the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

The Panel has applied the *Oki Data* test to the facts of this case and finds that the circumstances do not warrant the finding of a *bona fide* offering of goods and services. The screenshots of the Respondent's websites show that the services of parties other than the Complainant are made available on them. And neither website explains the relationship between the Respondent and the Complainant. Moreover, the website found at <meowwolftickets.com> does not offer the Complainant's tickets at all.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing. And nothing in the record or Response otherwise tilts the balance in the Respondent's favor.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

D. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or a product or service on [the respondent's] website or location".

The record indicates that the Respondent targeted the Complainant when it registered the disputed domain names. At least one of the websites set up using one of the disputed domain names purports to offer for

sale tickets to the Complainant's locations. This rises to the level of bad faith registration. See *Urban Outfitters Inc. v. Tatiana Vera*, WIPO Case No. [D2022-2176](#); *Golden Goose S.P.A. v. Whoisguard Inc. / Wei Zhang*, WIPO Case No. [D2017-2444](#).

The facts indicate that the Respondent used the disputed domain names in bad faith, by intentionally attempting to divert, for commercial gain, Internet users to one or more competing websites in an effort to confuse and mislead consumers. *Deutsche Lufthansa AG v. Domain Admin, Whois Privacy Corp / Ryan G Foo, PPA Media Services*, WIPO Case No. [D2015-2346](#); *Net2phone Inc. v. Dynasty System Sdn Bhd*, WIPO Case No. [D2000-0679](#). One cannot reasonably conclude that the Respondent set up the websites at the disputed domain names without the intention to trade on the goodwill of the Complainant's mark and/or to confuse Internet users.

For these reasons, the Panel finds that the Complainant has established this third element under 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, <meowwolftickets.com> and <ticketsmeowwolf.com>, be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: November 1, 2022