

## **ADMINISTRATIVE PANEL DECISION**

Mav Media, LLC v. Zhichao Yang  
Case No. D2022-3760

### **1. The Parties**

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

The Respondent is Zhichao Yang, China.

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

The disputed domain names <dirtyoulette.com>, <dirtyoulette.com>, <dirtyroukette.com>, <dirtytoulette.com> and <dortyroulette.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 October 7, 2022. On October 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 7, 2022, 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 (See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 11, 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 amendment to the Complaint on October 11, 2022.

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 the Respondent of the Complaint, and the proceedings commenced on October 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 7, 2022.

The Center appointed Mihaela Maravela as the sole panelist in this matter on November 11, 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.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

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

The Complainant owns and operates a video chat platform for adults that allows users to chat with each other on the Internet by video. The Complainant is the owner of the United States trademark DIRTYROULETTE registered on December 27, 2016 under no. 5109884 for services in class 38.

The disputed domain names were registered on January 14, 2018 and they all redirect to the same landing page displaying Pay-Per-Click ("PPC") links for webcam adult websites.

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

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

The Complainant argues that the disputed domain names are identical or confusingly similar to its registered trademark DIRTYROULETTE, as the disputed domain names are a misspelled version of the Complainant's trademarks.

As regards the second element, the Complainant argues that the Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent, whether express or implied, to use the Complainant's trademarks in the disputed domain names or in any other manner. The Respondent is not commonly known by the disputed domain names. The websites at the disputed domain names offer adult entertainment services in direct competition with the Complainant's services. The disputed domain names are being used to redirect visitors to websites containing pay-per-click advertising to the Complainant's competitors which does not qualify as a legitimate noncommercial fair use.

With respect to the third element, the Complainant argues that the disputed domain names are typosquatted versions of the Complainant's trademarks and that the intentional misspelling of a complainant's trademark to commercially benefit from a confusing similarity between a disputed domain name and the trademark is evidence of bad faith under the Policy. The Respondent has registered the confusingly similar disputed domain names to offer services in direct competition with the Complainant, therefore the Respondent was likely aware of the Complainant's trademark rights and is using the disputed domain names to attract, for commercial gain, Internet users to the Respondent's websites by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the disputed domain names. The disputed domain names are being used to redirect visitors to a website containing PPC advertising to the Complainant's competitors. This is evidence of bad faith use according to the Complainant.

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

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

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

##### **6.1. Preliminary Matters**

No communication has been received from the Respondent in this case. However, given that the Complaint was sent to the relevant address disclosed by the Registrar, the Panel considers that this satisfies the

requirement in paragraph 2(a) of the Rules to “employ reasonably available means calculated to achieve actual notice”. The courier attempting delivery of the Written Notice was unable to complete delivery. Bearing in mind the duty of the holder of a domain name to provide and keep up to date correct Whois details, therefore, the Panel finds that the Respondent has been given a fair opportunity to present its case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent’s failure to file any Response.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

## **6.2. Substantive Matters**

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

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

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

The Complainant has provided evidence of its rights in the DIRTYROULETTE trademarks.

Here, the disputed domain names consist of the obvious misspelling of the DIRTYROULETTE trademark of the Complainant. This misspelling in the disputed domain names also referred to as typosquatting, does not prevent a finding of confusing similarity (see section 1.9 of the [WIPO Overview 3.0](#)).

It is well accepted by UDRP panels that a generic Top-Level Domain (“gTLD”), such as “.com”, is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11.1 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain names are confusingly similar to the Complainant’s trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

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

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant has established a *prima facie* case that it holds rights over the trademark DIRTYROULETTE and claims that the Respondent has no legitimate reason to acquire and use the disputed domain names.

There is no evidence that the Respondent is using the disputed domain names in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate

noncommercial or fair use of the disputed domain names. Rather, according to the un rebutted evidence put forward by the Complainant, the disputed domain names are used to redirect to parked pages comprising PPC links to competing services. According to section 2.9 of the [WIPO Overview 3.0](#), “Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users”. In this case, the PPC links are related to the Complainant’s business and generate search results with competing services to those offered by the Complainant. In this Panel’s view, such use does not amount to a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain names within the meaning of paragraphs 4(c)(i) and (iii) of the Policy.

Also, there is no evidence that the Respondent is commonly known by the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy.

The Respondent has not replied to the Complainant’s contentions, claiming any rights or legitimate interests in the disputed domain names.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

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

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain names have been registered and are being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, “in particular but without limitation”, be evidence of the disputed domain names’ registration and use in bad faith.

The disputed domain names were registered after the Complainant had obtained registration of its DIRTYROULETTE trademark and used it in commerce. The website associated with the disputed domain names contain PPC links related to the services offered by the Complainant. Moreover, the disputed domain names (which were all registered on the same day) form a pattern that confirms the Respondent’s intention was to target the DIRTYROULETTE trademark. Under these circumstances, the Panel considers that the Respondent has registered the disputed domain names with knowledge of the Complainant and its trademark and that it targeted that trademark. The typosquatting nature of the disputed domain names further supports this inference.

As regards the use of the disputed domain names, from the evidence put forward by the Complainant and not rebutted by the Respondent, it results that the disputed domain names redirect Internet traffic to a website displaying PPC advertisements for the Complainant-related services. Given the confusing similarity between the Complainant’s DIRTYROULETTE trademark and the disputed domain names, and that the PPC links operate for the commercial gain of the Respondent or of the operators of those linked websites, or both, the Panel considers that the disputed domain names are intended to attract Internet users by creating a likelihood of confusion with the Complainant’s DIRTYROULETTE trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s websites or other online location or of a service offered on such other online location within the terms of paragraph 4(b)(iv) of the Policy.

Moreover, the Respondent has not participated in these proceedings and has failed to rebut the Complainant’s contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible.

Based on the evidence and circumstances of this case, the Panel concludes that the disputed domain names were registered and are being used in bad faith.

## 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, <dirtyeoulette.com>, <dirtyoulette.com>, <dirtyroukette.com>, <dirtytoulette.com>, <dortyroulette.com> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: November 25, 2022