

ADMINISTRATIVE PANEL DECISION

Mav Media, LLC v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2022-3851

1. The Parties

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <dirtyroulettw.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 11, 2022. On October 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 17, 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 (REGISTRATION PRIVATE c/o Domains By Proxy, LLC) and contact information in the Complaint. Besides the disputed domain name, the Complaint originally included another domain name <dirtyroulette.com>. On November 16, 2022, the Complainant sent an email communication to the Center confirming that the Complainant wished to withdraw its complaint related to the domain name <dirtyroulette.com> as it had already expired. The Center sent an email communication to the Complainant on November 28, 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 November 28, 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 November 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 21, 2022.

The Center appointed James Wang as the sole panelist in this matter on December 27, 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 owns and operates the website located at the domain name <dirtyroulette.com> and has used this domain name for several years to provide a video chat platform that allows users to chat with each other on the World Wide Web by video.

The Complainant is the owner of the United States trademark registration No. 5109884 DIRTYROULETTE in Class 38, the application filing date of which is June 30, 2016, and the registration date is December 27, 2016.

The disputed domain name was registered on March 7, 2018. The disputed domain name resolved to a web page containing pay-per-click advertising links.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is identical or confusingly similar to the DIRTYROULETTE trademark in which the Complainant has rights. The Respondent has neither rights nor legitimate interests in the disputed domain name. The disputed domain name was registered and is being used in bad faith.

The Complainant requested that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

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

A. Identical or Confusingly Similar

The Complainant has provided evidence that it is the owner of DIRTYROULETTE trademark registration in the United States.

The disputed domain name incorporates the entirety of the Complainant's DIRTYROULETTE trademark, except that the last letter "e" is misspelled as 'w'. As the disputed domain name contains sufficiently recognizable aspects of the DIRTYROULETTE trademark, the obvious misspelling does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

According to the Complaint, 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 DIRTYROULETTE trademark in the disputed domain name or in any other manner. The Respondent is not commonly known by the DIRTYROULETTE trademark and does not hold any trademarks for the disputed domain name.

The Respondent submitted no response or evidence to rebut the allegations of the Complainant.

The Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests, and the Respondent failed to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant has provided evidence that the registration of the Complainant's DIRTYROULETTE trademark predates the Respondent's registration of the disputed domain name.

Considering the last letter "e" of the Complainant's DIRTYROULETTE trademark and the last letter "w" of the disputed domain name are adjacent keyboard letters, the employing by the Respondent of a misspelling in this way signals an intention to confuse users seeking or expecting the Complainant. The Panel therefore agrees with the Complainant's contention that the disputed domain name was registered in bad faith.

The Complainant has also provided evidence that the disputed domain name resolved to a web page containing pay-per-click advertising links, which indicates that the Respondent has an intent to profit in some fashion from or otherwise exploit the Complainant's trademark. Also taking into account the distinctiveness of the Complainant's DIRTYROULETTE trademark and the Respondent's likely knowledge of the Complainant's trademark, the Panel agrees with the Complainant's contention that the Respondent is using the disputed domain name in bad faith. See [WIPO Overview 3.0](#), sections 3.1.1.

The Panel therefore finds that the Complaint has satisfied 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 <dirtyroulett.com> be transferred to the Complainant.

/James Wang/

James Wang

Sole Panelist

Date: January 10, 2023