

## **ADMINISTRATIVE PANEL DECISION**

Les Studios Moment Factory Inc. v. Ahmed Ali  
Case No. D2023-0738

### **1. The Parties**

The Complainant is Les Studios Moment Factory Inc., Canada, represented by St. Lawrence Law Firm LLP, Canada.

The Respondent is Ahmed Ali, United States of America (“United States”).

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

The disputed domain name <momentfactory.info> (the “Domain Name”) 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 17, 2023. On February 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 21, 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 amendment to the Complaint on February 14, 2023.

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 March 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 22, 2023. The Respondent did not submit any response. The Center received a communication on March 7, 2023. Accordingly, the Center notified the parties that it would proceed to panel appointment on March 28, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on April 6, 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 is a multimedia entertainment studio specialising in the design and production of immersive environments, combining video, lighting, architecture, sound, and special effects. It has offices in Montreal, Paris, Tokyo, New York, and Singapore and its shows are presented across the world under several brands, including MOMENT FACTORY which it has used since 2001.

The Complainant owns trade mark registrations for its MOMENT FACTORY mark in numerous jurisdictions, including Canadian trade mark registration number TMA674,225 MOMENT FACTORY in class 35 with registration date October 5, 2006.

The Domain Name was registered on December 4, 2022 and currently does not resolve to an active website. The Complainant has presented evidence showing that the Domain Name has been used to send email from senders ostensibly representing a company called “Moment Factor”, offering recipients job interviews for video editor positions.

#### **5. Parties’ Contentions**

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

The Complainant contends that the Domain Name is identical to its MOMENT FACTORY mark, that the Respondent has no rights or legitimate interests in it, and the Domain Name was registered and used in bad faith given that it has been used to perpetuate fraud by impersonating the Complainant in order to harvest personal information from users via fake job listings.

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

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

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

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

The Domain Name is plainly identical to the Complainant’s registered MOMENT FACTORY mark. Spaces in a trade mark can be disregarded for purposes of assessing identity (*Novomatic AG v. Oleg Bakanach*, WIPO Case No. [D2020-1667](#)). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

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

The Complainant’s mark was registered and used extensively long prior to registration of the Domain Name. The Domain Name is identical to the Complainant’s mark, the Complainant has certified that the Domain Name is unauthorised by them, the Respondent did not file a Response, and there is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain.

Given what is stated in relation to bad faith below, it is more likely than not that the Domain Name has been used for fraud. Panels have categorically held that use of a domain name for illegal activity can never confer rights or legitimate interests (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 2.13.1). The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

### C. Registered and Used in Bad Faith

The Complainant's evidence establishes that the Domain Name has been used to send emails to users offering job interviews for video editor positions, ostensibly sent by representatives of a company called "Moment Factory". Potential job applicants were asked to submit personal details, including passport, driver's licence and proof of address documents, after which nothing was heard from the sender. The Panel concludes that these emails were likely intended to deceive users into believing that they were in fact sent by the Complainant with a view to harvesting personal information, and that this was the Respondent's intention upon registration of the Domain Name, for the following reasons:

- Video editing accords with the types of jobs that a multimedia company like the Complainant would legitimately advertise
- Google searches for "moment factory" return results overwhelmingly associated with the Complainant. The mark, which comprises the entirety of the Domain Name, is thus unique and highly specific to the Complainant
- The Panel has independently established that at least one security vendor has flagged the Domain Name as malicious, which is an indicator of bad faith (*The Commissioners for HM Revenue and Customs v. WhoisGuard Protected, WhoisGuard, Inc. / Hoshyar Marshall*, WIPO Case No. [D2021-0344](#))

After having sent notification of the Complaint to the street address recorded in the Whois record for the Respondent via courier, the Center received correspondence from a person claiming to be resident at that address indicating that the Respondent is not known at that address. This indicates that a false address was supplied by the Respondent, which, in the circumstances of this case suggests an attempt by the Respondent to evade pursuit (*Kabushiki Kaisha Raibudoa v. Kubota, A*, WIPO Case No. [D2001-0817](#)). The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

The Complainant 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 Domain Name, <momentfactory.info>, be transferred to the Complainant.

/Jeremy Speres/

**Jeremy Speres**

Sole Panelist

Date: April 20, 2023