

ADMINISTRATIVE PANEL DECISION

McDonald's Corporation v. Eburg City (Gene Camarata) Case No. D2023-1237

1. The Parties

Complainant is McDonald's Corporation, United States of America ("United States" or "U.S."), represented by Neal, Gerber & Eisenberg, United States.

Respondent is Eburg City (Gene Camarata), United States.

2. The Domain Names and Registrars

The disputed domain names <gas-mcd.com>, <globalmcdonalds.com>, <mcdock.com>, and <partners-mcd.com> are registered with GoDaddy.com, LLC (the "First Registrar"); the disputed domain name <us-mcd.com> is registered with Blue Razor Domains, LLC (the "Second Registrar", and together with the First Registrar, the "Registrars").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 21, 2023. On March 22, 2023, the Center transmitted by email to the Registrars each a request for registrar verification in connection with the disputed domain names. On March 23, 2023, the Registrars each transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on March 24, 2023, providing the registrant and contact information disclosed by the Registrars, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 29, 2023.

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 Respondent of the Complaint, and the proceedings commenced on April 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2023. Respondent sent three informal emails on March 29, April 4, and April 24, 2023, respectively, including a request to extend by 30 days the deadline for it to submit its Response. Pursuant to the Rules, paragraph 5(b), the due date for the Response was automatically extended four

calendar days to April 28, 2023. No Response nor reply was received from Respondent. Accordingly, the Center notified the Parties on May 9, 2023, that it would proceed with the panel appointment.

The Center appointed Scott R. Austin as the sole panelist in this matter on May 23, 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.

On June 15, 2023, Respondent sent a fourth email to the Center, copying Complainant, requesting a further 14-day extension to file a Response. On June 16, 2023, Complainant sent its first supplemental filing to the Center, copying Respondent, objecting to Respondent's request for an extension.

On June 22, 2023, the Panel issued Procedural Order No. 1 to the Parties, discussed in Section 6.1 below, granting Respondent a seven-day extension, *i.e.*, by June 30, 2023, to file its Response and Complainant a seven-day period to comment on Respondent's filing, which was further extended, upon Complainant's request, to July 10, 2023. Respondent sent an informal email on June 30, 2023, and a Response on July 3, 2023. Complainant submitted its comment on Respondent's filings on July 3, and July 10, 2023.

4. Factual Background

The following facts appear from the Complaint and its attached Annexes, which provide evidence sufficient to support:

For more than 60 years, Complainant has been in the business of developing, operating, franchising, and servicing an extensive system of restaurants that prepare, package, and sell a variety of foods and beverages under the trademarks MCDONALD'S (the "MCDONALD'S Mark") and MCD (the "MCD Mark" and collectively with the MCDONALD'S Mark the "MCDONALD'S Marks"). With over 38,000 McDonald's restaurant locations serving approximately 69 million customers in over 100 countries each day, Complainant has developed a worldwide reputation as the world's leading foodservice retailer under its globally recognized MCDONALD'S Marks.

Complainant and its affiliates own trademark rights established at common law and hold numerous trademark registrations, many incontestable, in the United States and around the world for the MCDONALD'S Marks consisting of or including the terms "McD" or "MCDONALD'S" to identify its restaurant-related goods and services, including:

1. U.S. Registration No. 1,037,773, MCD, registered on April 13, 1976;
2. European Union Registration No. 008503931, MCD, registered on September 28, 2010;
3. U.S. Registration No. 743,572, MCDONALD'S registered on January 8, 1963;
4. China Registration No. 769369, MCDONALD'S, registered on October 7, 1994.

Complainant also shows in the annexes to its complaint, that Complainant has developed substantial common law trademark rights in its MCD Mark through its use as a shorthand or nickname for MCDONALD'S as shown in documents recognizing such use in Complainant's worldwide operations with vendors and affiliates, the press and consumers alike for almost 30 years. Complainant has submitted printouts from websites where numerous third parties, the press and consumers refer to McDonald's as "McD". At least one federal court has held in an action involving the distinctiveness and recognition of Complainant's MCDONALD'S Marks that Complainant's extensive advertising and promotion of its "Mc" formative marks (*i.e.*, the combination of the prefix "Mc" with a dictionary word) and its commercial success have caused its "Mc" formative marks, used both within and outside the food service industry, to become so well-known as to be "virtually universal". *Quality Inns v. McDonald's Corporation*, 695 F. Supp. 198, 203, 8 USPQ2d 1633, 1642-43 (D. Md. 1988). Courts have also specifically found the MCD Mark distinctive and

Complainant to hold the exclusive ownership rights in its registered MCD Mark. See *Camarata v. McDonald's Corp.*, Case No. C19-6236JLR, 2021 U.S. Dist. LEXIS 54399, *11-12 (W.D. Wash., Mar. 23, 2021) (no genuine issue of material fact that McDonald's owns the MCD Mark and that the mark is distinctive). Complainant also asserts that its MCD Mark has acquired rights through its use to identify Complainant's mobile application ("atmcd" or "@mcd"), as well as using "MCD" as the stock ticker symbol for Complainant on the New York Stock Exchange.

Complainant has also registered numerous domain names that incorporate the MCDONALD'S Mark and the MCD Mark, including <mcdonalds.com>, registered by Complainant in 1994 and used to access Complainant's official website where it promotes Complainant's restaurant and food preparation services under the MCDONALD'S Marks.

Domain names registered by Complainant which incorporate the MCD Mark used in communications for the operation of its restaurant services with employees, executives and its franchisees, including <mcd.com>, registered and in use since 1993, as well as <atmcd.com> and <accessmcd.com>, which both resolve to <gas.mcd.com>. Complainant has used these as email domain names incorporating the MCD Mark for years - and continues to use these domain names - to access its internal corporate website for McDonald's employees which provides information about the company and its benefits.

Complainant also shows the significance of "MCD" as the short form for MCDONALD'S used for business communications because MCD comprises the second level element in the configuration of Complainant's email address extensions which rely upon the foregoing MCD Mark domain names. Examples submitted by Complainant include (1) "@mcd.com", assigned to all of its employees and executives, in the United States and internationally shortly after it registered the domain name <mcd.com> in 1993; (2) email address extensions now tied to its organizational structure, such as "@us.mcd.com," for its United States employees and executives, "@us.stores.mcd.com" for its company-owned United States restaurant personnel, and "@partners.mcd.com" for its franchisee-owned restaurant personnel; and (3) "@xx.mcd.com" for its international employees where "xx" represents a two-letter country code, such as "@de.mcd.com" for Complainant's employees in Germany.

As disclosed in each Registrar's applicable verification response, Respondent registered the disputed domain names on, respectively: March 7, 2020, for <globalmcdonalds.com>; January 23, 2021, for <gas-mcd.com>; December 30, 2020, for <partners-mcd.com>; February 4, 2021, for <mcdock.com>; and January 24, 2021, for <us-mcd.com>. As of the date of the filing of the Complaint the disputed domain name <gas-mcd.com> - to which each of the other disputed domain names redirected - resolved to a website with content about methane and "mad cow disease" as a pretext to justify use of the disputed domain names. As of the date of this Decision, the disputed domain names <gas-mcd.com> and <partners-mcd.com> resolve to a Registrar parked page; and the remainder redirected to <gas-mcd.com> and are inactive.

Finally, Complainant's evidence shows that Respondent has engaged in a prior pattern of domain name abuse and illegitimate conduct strikingly similar to the facts presented here, based on Complainant's claims submitted against Respondent in two prior separate UDRP proceedings, *McDonald's Corporation v. Eburg City* ("Gene C."), WIPO Case No. [D2019-2164](#), and *McDonald's Corporation v. Hello There*, NAF Claim No. FA1866967 (the "Prior Cases") involving similar disputed domain names <partnersmcd.com>, <storesmcd.com>, <usstoresmcd.com>, and <mcd.us.com> (collectively, the "Prior Disputed Domain Names"). In late 2019 and early 2020, Respondent filed two (later-consolidated) federal district court lawsuits in Washington State challenging the decisions in the Prior Cases, *Camarata v. McDonald's Corp.*, Case No. C19-6236JLR, 2021 U.S. Dist. LEXIS 54399, *11-12 (W.D. Wash., Mar. 23, 2021) (the "Washington Lawsuit"). Following the conclusion of the Washington Lawsuit granting Complainant's motion for summary judgment, the decisions in the Prior Cases were made final and the Prior Disputed Domain Names were transferred to Complainant.

Complainant became aware of Respondent, Gene Camarata, as the true registrant responsible for registration of the disputed domain names in this case when Respondent forwarded misdirected emails he intercepted with inboxes associated with the disputed domain names. The five disputed domain names

registered by Respondent have been used by Respondent as part of an email interception scheme using “catch all” email inboxes to capture a number of misdirected emails intended for employees or partners of Complainant. Respondent then tried to profit from this email interception scheme by sending emails to Complainant to obtain some form of compensation from Complainant to forward the emails to the correct parties. Respondent in emails to Complainant has repeatedly claimed to be sitting on a “trove” of McD emails from countless “catch all” email inboxes and continues to send threatening emails to Complainant and others.

In addition, the information provided by the Registrar shows that Respondent has submitted false registration data as the postal address submitted is a fictitious, non-existing address.

5. Parties' Contentions

A. Complainant

Complainant contends that it owns rights in the MCD Mark and MCDONALD'S Mark by virtue of Complainant's use and registration of the MCD Mark and MCDONALD'S Mark many years before Respondent registered the disputed domain names. Complainant also contends that it owns common law rights in the MCD Mark based on Complainant's use of MCD as its stock ticker symbol and in the name of a mobile application owned by Complainant (“atMcD”), and because consumers and the press routinely use and understand MCD as a shorthand reference that refers to Complainant and its services.

Complainant asserts that the disputed domain names are confusingly similar to Complainant's MCDONALD'S Marks as they each incorporate either the MCD Mark or the MCDONALD'S Mark in their entirety and are based on the email extensions for email addresses used by Complainant for its employees, and executives in company-owned stores, and franchisees in the United States. In that regard, Complainant maintains that the disputed domain names, which are based on these email address endings used by Complainant, have resulted in potentially confidential emails to be misdirected to Respondent.

Complainant argues that Respondent has no legitimate interest in the disputed domain names as Respondent (i) registered the disputed domain names well after Complainant had obtained rights in the MCDONALD'S Marks and had extensively used the email extensions “@us.mcd.com”, “@partners.mcd.com”, and “@us.stores.mcd.com”; (ii) has not developed any legitimate business relating to or incorporating the MCDONALD'S Marks; (iii) is not commonly known by the MCDONALD'S name and Marks and has no affiliation with Complainant; and (iv) registered the disputed domain names with the intent of receiving misdirected email communications intended for Complainant's employees and franchisees by setting up “catch-all” email inboxes.

Lastly, Complainant contends that Respondent registered and has used the disputed domain names in bad faith given that Respondent has no rights in the MCDONALD'S Marks and was likely aware of Complainant's rights in the MCDONALD'S Marks when Respondent registered the disputed domain names that are all based on Complainant's MCDONALD'S Marks and email extensions. Complainant also argues that Respondent's bad faith is established by the fact that Respondent registered the disputed domain names to likely obtain misdirected emails intended for Complainant and then by sending emails to Complainant about the misdirected emails received by Respondent and threatening to publicly disclose the matter to media outlets such as the Wall Street Journal and the New York Times unless Complainant provided some compensation to Respondent for the time spent by Respondent in notifying and redirecting such misdirected emails to Complainant.

B. Respondent

Respondent did not file a timely or formal Response in reply to Complainant's contentions. In the series of emails submitted by Respondent as supplemental filings discussed in Section 6.1 below, Respondent rejects Complainant's contentions and asserts that Complainant has failed to satisfy the three required elements

under paragraph 4(a) of the Policy. Respondent's additional contentions are set forth in the Supplemental Filings analysis discussed in Section 6.1 below.

6. Discussion and Findings

6.1 Procedural Matters: Supplemental Filings and Procedural Order No. 1

A. Consideration of the Parties' Supplemental Filings

The Panel has reviewed the informal communications Respondent sent to the Center as unsolicited supplemental filings on March 29, April 4, and April 24, 2023.

Respondent's March 29, 2023 email stated:

"I am the Respondent, apparently, in this new (apparently) proceeding.

It's unclear exactly what's taking place and I wish to have legal representation and/or plenty of time to respond to anything. In this Yahoo! email account, that this email is now being sent from, two WIPO notices were in the spam inbox that I noticed yesterday (March 28, 2023), although they were in a Gmail inbox. I noticed a March 24, 2023 email from WIPO regarding the Complainant being invited to amend the Complaint by March 29, 2023, to reflect registrant information in the Registrar. Are there any other previous emails (i.e., the Complaint itself) that were emailed to me?

Mutual Jurisdiction is to be in Thurston County, Washington State where there are court precedents that that is the proper jurisdiction and venue, in both state and federal courts.

Also, what's the reason for cluttering who related emails are being sent to with all the emails being sent to @domainsbyproxy.com?"

Respondent's April 4, 2023 email stated:

"An email was received by GoDaddy today saying, "Someone is trying to contact you regarding us-mcd.com."

What is it that you'd like to say?"

On April 4, 2023, Complainant also received an email communication from Respondent, "Gene C," associated with an email address different from that provided by the Registrars and that has been identified by Complainant as Respondent's email, under the heading "2 pics. Thought this was locked up pending resolution. As just mentioned to MCD counsel..." in which Respondent notified Complainant that Respondent had received another misdirected confidential email intended for a McDonald's employee or franchisee. Respondent also sent separate correspondences directly to Complainant's counsel, examples of which Complainant submitted to the Panel. Respondent's April 4, 2023 communication to Complainant provided in part that Respondent "will be submitting hundreds of thousands of documents for domain name proceedings (administrative and court proceedings) to make my case."

Respondent's April 24, 2023 email stated:

"Apparently, the due date for submission of Respondent's response is April 24, 2023.

A continuance to respond is requested by Respondent because including, but not limited, to the voluminous record, hindrance of accessing an adequate computer to review documents, other undue hardships, and Respondent would like to have legal representation. A continuance of, perhaps, 30 days should be sufficient, and if not possible, a lesser amount of time would be he appreciated.

Respondent would also like to have input on who the single member Administrative Panel will be if that's the case and/or the possibility of having a three-member panelist?"

Pursuant to the Rules, paragraph 5(b), the due date for the Response was automatically extended four calendar days to April 28, 2023. No Response nor further reply was sent by Respondent.

Thus, prior to the Panel's Appointment, Respondent had originally requested a significant extension of time, 30 days, to which the Center granted a four day automatic extension pursuant to the Policy Rules, paragraph 5(b). Respondent's April 4, and April 24, 2023 supplemental filings suggested to the Panel that Respondent might have substantial additional evidence to submit requiring more time than originally allowed given the limited four day automatic extension the Center provided and in the interests of completeness of the record, or in the event a circumstance existed where some new or important additional fact or evidence in support of a valid argument of Respondent or Complainant would be lost if not considered so that it might be beneficial to permit Respondent to have additional time to file a formal Response to insure the record was complete for both Parties.

Respondent's June 15, 2023 email is Respondent's request for a 14-day continuance, which stated:

"On April 24, 2023, Respondent requested a possible 30 day continuance. The following day (4/25/2023) WIPO only granted the automatic four calendar day extension for response under paragraph 5(b) of the Rules. Respondent is hereby requesting a 14 day continuance to respond due to hardships and four days was not enough time after 30 days was requested, and Complainant McDonald's Corp. has engaged in fraud and does not even have standing for at least one of the domain names, specifically, mcdock.com, as mcdoc.com belongs to a franchisee – if you put mcdoc.com in the address bar, it's for sale. Also, other unrelated entities have legal rights for mcdock.com such as M.C. Docks (mcdocks.com), an online store for boat dock hardware."

Complainant's June 16, 2023 supplemental submission objected to Respondent's continuance request, arguing Respondent's assertions, carried over from his prior 30 day request on April 24, 2023, are baseless regarding Respondent's alleged need for more time to review a "voluminous" record and alleged undue hardships, essentially Respondent's inability to access an adequate computer to review the documents. Complainant argued the record consisted of records from the Prior Cases that Complainant had seen before, and contended Respondent's assertions of lack of computer access as untrue because Respondent continued to send frequent, harassing emails with marked up materials to Complainant. Complainant attached examples of emails from Respondent to Complainant incorporating detailed electronic redactions of emails directed to Complainant and third parties, thereby showing Respondent's claim of lack of computer access was untrue.

The Panel, therefore, considered the factual portions of the three initial supplemental submissions by Respondent dated March 29, April 4, and April 24, 2023 and treated Respondent's extension of June 15, 2023 request for a 14-day continuance as exceptional and considered the facts provided in Respondent's supplemental filings sufficient to warrant a seven-day continuance after the original deadline for its response had passed.

On June 22, 2023, the Panel issued the Procedural Order No.1 in which the Panel took into consideration the factual portions of the foregoing supplemental submissions by Respondent and Complainant. Taking the initial supplemental submissions by Respondent dated March 29, April 4, and April 24, 2023 into consideration as well as Respondent's email communication on June 15, 2023 requesting an extension to file a Response, and Complainant's objection on June 16, 2023 which attached a copy of the April 4 email Complainant received from Respondent, the Panel granted Respondent a seven-day extension to file a Response in the Procedural Order No, 1 requiring that Respondent submit its response "by no later than June 30, 2023."

B. The Parties' Supplemental Filings in Response to Procedural Order No. 1.

On June 22, 2023, the Panel issued Procedural Order No. 1, which granted Respondent a seven-day extension to file its Response, *i.e.*, by no later than June 30, 2023. Complainant was invited to submit comments on any response received from Respondent on or before July 7, 2023.

On June 23, 2023, Complainant submitted an additional supplemental filing requesting an additional three-day extension to its reply deadline to compensate for the intervening Fourth of July holiday and accompanying weekend, office closures due to the holidays and submitted reference to prior UDRP decisions granting extensions under similar circumstances.

On June 23, 2023, the Panel granted Complainant's request to extend by three days to July 10, 2023, the deadline to submit its reply.

Respondent did not timely file a Response in reply to Procedural Order No. 1 by the deadline concerned, namely on or before June 30, 2023.

On June 30, Respondent submitted an informal email under a subject heading consisting of the case data followed by "Respondent's response" attaching a "Time Zone Converter" screenshot to the following text: "Pic now. This Friday (today) was planned to have a response in. Just checked dates and times. Apparently, it's Saturday in Geneva. McDonald's Corp.'s request about the three-day holiday may have resulted in muddling things up. Will try to have a response in by early Sunday morning, before WIPO opens for business."

On July 3, 2023, Respondent submitted an additional informal email under the subject heading "Respondent's belated response."

Respondent's July 3, 2023 filing began with the unsupported assertion, essentially a general denial of the first and third elements of the Policy, that "None of the domain names in dispute have been registered and or being used in bad faith, confusingly similar to a trademark or service mark in which the Complainant has rights, or is contrary to federally registered rights or common law rights."

Respondent further contends that the disputed domain names cannot be confused with any websites maintained by Complainant, particularly as there are a number of other parties using the designation "MCD" to refer to themselves or as an abbreviation for things that are unrelated to Complainant, such as "mad cow disease".

Respondent then contended that Complainant does not even have standing for the disputed domain name <mcdock.com>, because a similar domain name, <mcdoc.com>, belonged to a franchisee and it was for sale. Also, other unrelated entities have legal rights for <mcdock.com> such as M.C. Docks (operating through <mc docks.com>), an online store for boat dock hardware. Complainant is not in the boating business.

"Not only was there not any bad faith by Respondent, but Respondent has been doing [Complainant] a huge favor throughout the past several years, with his own time and expense, by preventing atrocious situations involving bad [actors] with nefarious motives. Below is just one example (two emails of many from the same entity – the first copy and pasted, the second forwarded, which wasn't really read thoroughly because of constraints on time and access to an adequate computer), of so very many others, including with [Complainant's] franchisees involving millions of dollars in transactions." Respondent's supplemental filing attached a captured redirected email to Complainant's executives discussing financial and security matters, redacted and including reference to an attached "payment form".

Complainant's July 3 supplemental filing in response to Respondent's supplemental filing contended that Respondent's July 3, 2023 supplemental filing should be disregarded because the Response was submitted 3 days past the most recent deadline of June 30, 2023 which was set subsequent to several prior

extensions—at least one of which Respondent took without notice or permission from the Panel. Complainant requested a further extension of three days due to closures in Complainant's offices over the intervening July 4th Holiday, in the event the Panel decided to consider Respondent's July 3, 2023 supplemental filing as a Response.

Respondent's informal submissions are not sufficient to be considered a Response, and surprisingly lacking in supporting evidence, considering the amount of time Respondent has been given over the entire course of this proceeding to prepare its Response. A Response is required for Respondent to respond by challenging the substantial arguments and evidence submitted by Complainant under each of the three elements of the Policy and especially to rebut the *prima facie* case Complainant has established under the second element of the Policy. In addition, without signature and the formal requirements of a Response required under the Policy, the Panel cannot recognize this email, admitted as untimely by Respondent himself, as a formal Response, which is what the Procedural Order No.1 extended the deadline for Respondent to file. Without the benefits of the oath or affirmation required for the filing of a formal response the Panel declines to admit such informal communications for lack of confirmation of the identity of the person making the statement or the truthfulness of the facts asserted without some supporting evidence of a similar quality capable of verification, as Complainant has been required to submit and has submitted in the annexes to the Complaint to support its contentions and its case. Respondent, after being given an extended opportunity to submit a timely, substantive, formal response, has, by its own admission, failed to do so.

There is no provision in the Rules for a party to file any additional submission without leave of the Panel. This is because, under the expedited process provided under the Policy and Rules, each party is given one opportunity to put forward all the material on which it wishes to rely and is expected to do so. See, *Delikomat Betriebsverpflegung Gesellschaft m.b.H. v. Alexander Lehner* WIPO Case No. [D2001-1447](#).

Under the Rules, each Party is entitled as of right to submit only one single pleading. Paragraphs 10 and 12 of the Rules grant the Panel discretion to determine the admissibility of supplemental filings, including further statements or documents. The Panel granted the extension in Procedural Order No. 1 to permit Respondent the opportunity to produce new and verifiable evidence in the “hundreds of thousands of emails” he suggested he would be producing in his earlier correspondence. Such evidence has not been submitted. Hence, the Panel finds that Respondent's July 3, 2023 supplemental filing will be disregarded as untimely and unresponsive to Procedural Order No. 1. Complainant's timely submission on July 10, 2023 in response to Respondent's July 3, 2023 supplemental filing as permitted by the Panel, is therefore not strictly necessary, but as filed within the deadlines provided by the Panel, will be allowed for any additional factual information presented or arguments not previously submitted for the Panel's consideration in its analysis of each of the substantive elements of the Policy in Section 6.2 below.

6.2 Substantive Issues

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on Complainant to make out its case and it is apparent from the terms of the Policy that Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer a domain name. As the proceedings are administrative, the standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.2.

Thus, for Complainant to succeed it must prove within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

1. The disputed domain names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
2. Respondent has no rights or legitimate interests in respect of the disputed domain names; and
3. The disputed domain names have been registered and are being used in bad faith.

The Panel will deal with each of these requirements in turn.

A. Identical or Confusingly Similar

Ownership of a nationally registered trademark constitutes *prima facie* evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Complainant claims registered trademark rights in the MCDONALD'S Marks for its restaurant goods and services dating back to 1963. Sufficient evidence has been submitted in the form of electronic copies of valid and subsisting national and international trademark registration documents in the name of Complainant referenced in Section 4. Complainant has demonstrated, therefore, that it has rights in its globally famous MCDONALD'S Marks required under the Policy. See *Horten Advokatpartnerselskab v. Domain ID Shield Service CO., Limited / Krutikov Valeriy Nikolaevich et al.*, WIPO Case No. [D2016-0205](#); see also *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#).

With Complainant's rights in the MCDONALD'S Marks established, the remaining question under the first element of the Policy is whether the disputed domain names are identical or confusingly similar to Complainant's MCDONALD'S Marks. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". [WIPO Overview 3.0](#), section 1.7.

The disputed domain names are each confusingly similar to the MCDONALD'S Marks. Complainant's extensive and detailed evidence submitted in the Complaint and its Annexes relating to each disputed domain name shows that all five of the disputed domain names <gas-mcd.com>, <globalmcdonalds.com>, <mcdock.com>, and <partners-mcd.com>, and <us-mcd.com> clearly and prominently encompass Complainant's MCDONALD'S Mark or MCD Mark in full plus additional term(s) such as "gas", "global", "partners", "us", and in three disputed domain names, with the addition of a hyphen. Prior UDRP panels have held that a domain name which wholly incorporates a complainant's registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy despite the addition of other terms to such marks. Complainant's MCDONALD'S Mark or MCD Mark remains clearly recognizable within the disputed domain names and thus the disputed domain names are not sufficiently distinguishable from Complainant's MCDONALD'S Marks to remove them from the reach of the Policy. [WIPO Overview 3.0](#), section 1.8 ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element") see also *Meta Platforms, Inc. et al. v. Abuz Hamal et al.*, WIPO Case No. [D2022-0212](#); *eBay Inc. v. eBayMoving*, WIPO Case No. [D2006-1307](#). Further, the addition of a generic Top Level Domain ("gTLD") "is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test". [WIPO Overview 3.0](#), Section 1.11.1.

Complainant also contends that because the disputed domain names are visually and phonetically similar to the MCDONALD'S Marks an Internet user would likely be confused into believing that there is some relation, affiliation, connection, approval or association between Respondent and Complainant when, in fact, no such affiliation exists. Complainant also contends that the disputed domain names are confusingly similar to Complainant's official domain names Complainant uses for its email addresses for business communications with its company-owned and franchisee restaurants. The Panel recognizes based on the evidence submitted that because the disputed domain names look like Complainant's authorized domain names, many people intending to email Complainant have wound up emailing Respondent instead.

While some aspects of these confusing similarity issues may be more appropriate for consideration under the second and third elements of the Policy, the disputed domain names do contain typographical variations of Complainant's authorized domain names, including the omission of periods, replacement of periods with hyphens, and/or transposition of terms. The inclusion of a hyphen in some of the domain names also does not change the recognition that the disputed domain names are confusingly similar to Complainant's MCDONALD'S Marks. See, e.g., *Facebook, Inc. v. Ramunas Jonikas*, WIPO Case No. [D2018-1045](#) (inclusion of a hyphen "irrelevant" for purposes of the Policy)

Given Respondent's historical pattern of abuse of Complainant's MCD Mark in an email interception scheme in the Prior Cases, the Panel considers it reasonable to infer that the variations represent intentional reconfigurations of Complainant's email extensions selected by Respondent as typical misspellings, essentially typosquatting applied to Complainant's MCD Mark centered email domain names, to be considered further below. For purposes of this first element of the Policy, however, it is sufficient to note that prior UDRP panels have held that the deliberate introduction of errors or changes does not render a respondent's domain name not confusingly similar to the trademark owned by the complainant. See *The Kraft Heinz Foods Co. v. James Dunn*, WIPO Case No. [D2016-2153](#). Prior panels have also held that a deliberate misspelling of a trademark registered as a domain name, which is intended to confuse Internet users, must be confusingly similar by design. See [WIPO Overview 3.0](#), section 1.9; See also *Allstate Insurance Company v. Rakshita Mercantile Private Limited*, WIPO Case No. [D2011-0280](#).

Each of the disputed domain names is therefore confusingly similar to the prior rights of Complainant. Complainant has satisfied its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element of the Policy, a complainant is first required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. If a complainant makes that showing, the burden of production on this element shifts to the respondent to come forward with relevant evidence of such rights or legitimate interests in the domain name. If the respondent fails to come forward with such evidence, a complainant is generally deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1. See also, *Compagnie Generale des Matieres Nucleaires v. Greenpeace International*, WIPO Case No. [D2001-0376](#); and *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#).

Complainant has established, *prima facie*, that Respondent lacks rights or legitimate interests in each of the disputed domain names. First, Complainant submits that Respondent is not sponsored by or affiliated with Complainant in any way, is not licensed, or otherwise authorized by Complainant to use the MCDONALD'S Mark in any manner or to register any of the disputed domain names, nor has Complainant in any way or manner associated with or entered into any legal relationship with Respondent. To the contrary, Complainant has repeatedly objected to Respondent's registration and use of domain names comprising its MCDONALD'S Marks, as demonstrated by the Prior Cases and the Washington Lawsuit. Prior UDRP panels have held "[i]n the absence of any license or permission from Complainant to use its trademark, no actual or contemplated *bona fide* or legitimate use of the Disputed Domain Name could reasonably be claimed". *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#); see also *See Casa del Caffè Vergnano S.p.A v. Campo Largo B.V.*, WIPO Case No. [DNL2016-0040](#).

Second, Complainant contends and provides persuasive Whois registration data evidence in the Annexes to its Complaint that Respondent is not commonly known by the disputed domain names, which evinces a lack of rights or legitimate interests under Policy paragraph 4(c)(ii). The Whois information provided by the involved Registrars, GoDaddy.com, LLC, for the disputed domain names <gas-mcd.com>, <globalmcdonalds.com>, <mcdock.com>, and <partners-mcd.com>, and Blue Razor Domains, LLC, for <us-mcd.com>, identified the registrant as "Eburg City".

Based on Complainant's experience with the registrant data in the Prior Cases, and emails from Gene

Camarata received by Complainant, Complainant added Gene Camarata as an additional respondent as the “true registrant” of the disputed domain names.

Neither registrant name bears any resemblance to the disputed domain names in any manner, nor to the MCDONALD’S Marks. Prior UDRP panels have held that where no evidence, including the Whois record for the disputed domain names, suggests a respondent is commonly known by the disputed domain names, then respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy. See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#).

The Panel accepts Complainant’s contentions that Respondent is not commonly known by the disputed domain names and that Respondent has never been authorized by Complainant to use Complainant’s MCDONALD’S Mark. The Panel is therefore satisfied that Complainant has provided sufficient *prima facie* evidence that Respondent has no rights or legitimate interests in the disputed domain names.

Finally, the evidence submitted with the Complaint in its attached annexes, including the panel findings of two Prior Cases and a U.S. District Court decision, Respondent’s domain name abuse and conduct complained of here is a continuation of Respondent’s pattern of bad faith registration and use of domain names confusingly similar to Complainant’s famous MCDONALD’S Marks to further an illegitimate email interception scheme, setting up “catch-all” email inboxes to receive misdirected emails and thereby allowing Respondent to send numerous emails, on a nearly daily basis, to Complainant’s executives and others.

Essentially a phishing scheme for email capture of Complainant’s business communications to impersonate Complainant and convert, divert or otherwise hold hostage highly confidential emails between Complainant and its employees, business partners and vendors of every sort, to obtain a profit for Respondent’s commercial benefit by charging to release them and threatening to make them public by forwarding them to the press if its charges remained unpaid. Respondent has used the catch-all email inbox scheme to 1) repeatedly demand money from Complainant as purported compensation for his unsolicited interception of confidential business communications, and 2) offer to sell Complainant the information obtained through the confusion Respondent created, oftentimes redacting the sender’s identifying information so that Complainant cannot reach out to the sender itself, and when he does not receive payment, Respondent makes veiled threats to sue or go to the media and has in fact forwarded some emails to recognized national media outlets. As the panel in *McDonald’s Corporation v. Eburg City (“Gene C.”)*, *supra* summarized regarding the second element, “Respondent is not pursuing a *bona fide* or legitimate purpose but is trying to profit from a clever scheme of registering disputed domain names that specifically mirror email address endings used by Complainant.” *McDonald’s Corporation v. Eburg City (“Gene C.”)*, *supra*.

This activity appears to have been precipitated not to use the domain names legitimately in connection with Respondent’s own legitimate interest in offering goods or services, but to specifically interfere with Complainant’s business by preemptively registering domain names configured to intercept Complainant’s internal and external emails with employees, executives, franchisees and business partners to interfere with Complainant’s business operations and business relationships.

Under the strikingly similar circumstances involving the same Respondent in the Prior Cases, the UDRP panels in each decision found no rights or legitimate interests in the disputed domain names where Respondent engaged in the illegitimate email interception scheme shown here. See *McDonald’s Corporation v. Eburg City (“Gene C.”)*, *supra*, and *McDonald’s Corporation v. Hello There*, *supra*; see also, *Clare Locke LLP v. Gene Camarata / Eburg City*, WIPO Case No. [D2021-2788](#); *Cerner Corporation v. Eburg City*, NAF Claim No. FA1914975. The Panel here finds the prior UDRP panels’ reasoning persuasive, especially given such similar operative facts evidencing a reprise of previous domain name abuse by the same Respondent. See *Valero Energy Corp., Valero Marketing and Supply Co. v. Joe Mattews, Valero PLC*, WIPO Case No. [D2017-1856](#).

The Panel concludes that Complainant has met its burden in showing that Respondent registered each disputed domain name to opportunistically reroute and disrupt Complainant’s commercial communications

and benefit commercially from their release to Complainant and not for any legitimate *bona fide* offering of goods or services, based on Respondent's substantial email streams demanding payment for time Respondent spent working to curate its unauthorized intercepted emails, or interfering with Complainant's business by threatening to disclose Complainant's confidential business information to the press.

Complainant has presented a *prima facie* case showing that Respondent does not have rights or legitimate interests in the disputed domain names. The Panel notes that Respondent has not submitted a formal Response in this proceeding, much less provided the Panel with any persuasive evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude Respondent has rights or legitimate interests in the respective disputed domain names. As such, Respondent has failed to rebut Complainant's *prima facie* case.

The Panel finds, therefore, that Complainant has successfully met its burden and succeeds under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that you have registered, or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out of pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The Panel finds that Respondent has registered and used the disputed domain names in bad faith for at least the following reasons.

First, based on the facts set forth in Section 6.B above, and given the renown of both the MCD Mark and the MCDONALD'S Mark it is abundantly clear that Respondent knew of and targeted Complainant's MCDONALD'S Marks, and Respondent should be found to have registered and used the disputed Domain Names in bad faith. See *Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Pepsico, Inc. v. Seyed Mozafar Ghazvini*, WIPO Case No. [D2016-1560](#).

The Panel finds that Respondent's registration of the disputed domain names with awareness of Complainant and the MCDONALD'S Marks, and in the absence of its own rights or legitimate interests, amounts to registration in bad faith by Respondent. See *Royds Worthy King LLP v. Help Tobuy*, WIPO Case No. [D2019-0624](#).

In addition, given that the disputed domain names each includes the entirety of one of Complainant's MCDONALD'S Marks and contain typographical variations of Complainant's authorized domain names, including the omission of periods, replacement of periods with hyphens, and/or transposition of terms., the

disputed domain names constitute a form of typo-squatting, which prior UDRP panels have found is further evidence of a respondent's bad faith registration and use of the disputed domain names. See, e.g., *Equifax Inc. v. Jaewan Lee*, WIPO Case No. [D2021-1628](#).

Complainant also contends that the disputed domain names can only be taken as intending to cause confusion among Internet users as to the source of the disputed domain names, and thus, the disputed domain names must be considered as having been registered and used in bad faith pursuant to Policy ¶ 4(b)(iv), with no good faith use possible. Given the evidence submitted with the Complaint in its attached annexes, including the panel findings of two Prior Cases and a U.S. District Court decision, as outlined in section 6.2 B above, Respondent's domain name abuse and conduct complained of here is a continuation of Respondent's pattern of bad faith registration and use of domain names confusingly similar to Complainant's famous MCDONALD'S Marks. See *Valero Energy Corp. supra*, WIPO Case No. [D2017-1856](#).

Given this clear pattern of such abuse against Complainant, the disputed domain names are confusingly similar to Complainant's registered MCDONALD'S Marks and intentionally configured to exploit Complainant's email domain names to further Respondent's illegitimate email interception scheme, there is no plausible good-faith reason or logic for Respondent to have registered the disputed domain names. The Panel finds Respondent registered and used all five of the disputed domain names in bad faith. See [WIPO Overview 3.0](#) at section 3.8.2. See also *OLX, B.V. Kumud, G. / Whois Agent, Whois Privacy Protection Service, Inc.*, WIPO Case No. [D2015-0218](#).

In addition, given the above record and considering all of the circumstances, the Panel considers it reasonable to conclude Respondent targeted Complainant's MCDONALD'S Mark and its conduct, therefore, amounts to bad faith registration and use of the disputed domain names. The Panel finds Respondent registered the disputed domain names in bad faith, with full knowledge of Complainant's rights, and with the intent to (i) collect misdirected confidential emails intended for Complainant's business franchisees and employees and (ii) confuse the public as to the source, sponsorship, or affiliation of the websites and email extensions associated with the disputed domain names, to use the disputed domain names to redirect Complainant's Internet business information communicated through its email network for Respondent's commercial benefit in violation of the Policy. Accordingly, the Panel agrees with prior panels and finds the disputed domain names have been registered and used in bad faith.

Respondent has had multiple opportunities to explain and justify how Respondent came to register the disputed domain names but has failed to do so. Indeed, the fact that Respondent has repeatedly admitted its intent to intercept and redirect what Respondent identifies as important, confidential financial and business communications and request payment from Complainant at a USD 500 hourly rate as compensation for the bad faith use he has made of Complainant's MCDONALD'S Marks. Respondent likely has no valid explanation for Respondent's actions, which to this Panel appears on the evidence submitted to have been undertaken in bad faith.

The Panel finds Complainant's arguments and evidence persuasive, and no persuasive arguments or evidence submitted by Respondent to the contrary. Considering all the circumstances, the Panel concludes that Respondent has registered and used the disputed domain names in bad faith and 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 disputed domain names <gas-mcd.com>, <globalmcdonalds.com>, <mcdock.com>, <partners-mcd.com> and <us-mcd.com> be transferred to Complainant.

/Scott R. Austin/

Scott R. Austin

Sole Panelist

Date: July 28, 2023