

## ADMINISTRATIVE PANEL DECISION

Multi Media, LLC v. Laura Palmer and Hoang Anh  
Case No. D2023-4983

### 1. The Parties

The Complainant is Multi Media, LLC, United States of America (“United States”), c/o Walters Law Group, United States.

The Respondent is Laura Palmer, Thailand (the “First Respondent”), and Hoang Anh, Viet Nam (the “Second Respondent”).

### 2. The Domain Names and Registrars

The disputed domain name <recurbate.me> is registered with NameCheap, Inc.

The disputed domain name <recurbate.net> is registered with Porkbun LLC (the “Registrars”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2023. On November 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 30, 2023, the Registrars 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 (Redacted for Privacy, Privacy service provided by Withheld for privacy ehf, Whois privacy, Private by design LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on November 30, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar(s), requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on December 4, 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 the Respondent of the Complaint, and the proceedings commenced on December 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 25, 2023. A third party sent an email communication to the Center on December 7, 2023. The First Respondent filed a response on December 9, 2023.

The Center appointed John Swinson as the sole panelist in this matter on January 15, 2024. 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 Californian limited liability company that provides online adult entertainment. The Complainant's primary website is located at "www.chaturbate.com". This is a pornographic website providing live webcam performances.

The Complainant is the owner of the following United States trademark registrations for CHATURBATE:

- United States trademark CHATURBATE with Registration No. 4288943, registered on February 12, 2013, for services in International Classes 38 and 42.
- the semi-figurative United States trademark CHATURBATE with Registration No. 4988208, registered on June 28, 2016, for services in International Classes 38 and 42.

According to Wikipedia, "Chaturbate" is a portmanteau of "chat" and "masturbate".

The disputed domain name <recurbate.me> was registered on September 23, 2022.

The disputed domain name <recurbate.net> was registered on December 29, 2022.

Little information is known about the Respondents.

According to the Registrar's records, the First Respondent has an address in Thailand. The First Respondent was a respondent in *Multi Media, LLC v. Laura Palmer*, WIPO Case No. [D2023-3737](#). (The Complainant relies upon this case; the First Respondent asserts that the case was incorrectly decided.)

According to the Registrar's records, the Second Respondent has an address in Viet Nam.

On November 11, 2023, the website at the <recurbate.me> disputed domain name resolved to a website titled "Recurbate: The #1 Cam Archive". On December 12, 2023, the first line of this website included the message: "Recurbate com domain was seized. Recurbate.me is safe and secure. Read more." At the present time, the <recurbate.me> disputed domain name redirects to a website at "www.recu.me" and includes the message "New name — same me! Now Recurbate is on Recu.me." The content, design and layout of all versions of these two websites at the dates referred to above at all similar – a mostly black screen with large thumbnail images of what appears to be videos of adult entertainers.

At the present time, the website at the <recurbate.me> disputed domain name includes notice at the bottom of the page: "Recurbate is not related to Chaturbate.com and has no intentions of selling Recurbate to anyone."

On both November 11, 2023 and December 12, 2023, the website at the <recurbate.net> disputed domain name resolved to a website titled "Recurbate Free. The Chaturbate, Cam4, MyFreeCams, Stripchat Archive." At the present time, the <recurbate.net> disputed domain name does not resolve to an active website. When active, the website was a mostly black screen with large thumbnail images of what appears to be videos of adult entertainers.

## 5. Parties' Contentions

### A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names resolve to websites that advertise stolen content from the Complainant's website and allows visitors to gain unauthorized access to the copyright protected content broadcasted by the Complainant's users on the Complainant's "www.chaturbate.com" website.

### B. Respondent

The First Respondent submitted an informal Response, that, in summary, included the following submissions:

- The First Respondent has no affiliation with the <recurbate.net> disputed domain name and the First Respondent cannot be held accountable for their actions or operations.
- The First Respondent does not infringe upon the Complainant's trademark rights. The First Respondent does not use the term "Chaturbate" or the colour scheme or font of the Complainant's logo.
- The term "Recurbate" contains the substring "urbate" which alone is insufficient to establish a confusing similarity with the trademark CHATURBATE' This is further substantiated by the existence of other unrelated terms containing the substring "urbate", such as "masturbate", "perturbate", "surbate" and so on.
- The First Respondent has no intention to sell the disputed domain name <recurbate.me> to the Complainant.
- The First Respondent wrote "we only host broadcasts that are publicly available and do not feature any content that is paid for, restricted, or private. Content we host has been distributed freely and without charge. ... We adhere strictly to the Digital Millennium Copyright Act (DMCA) and have established a procedure to promptly address and comply with content takedown requests, achieving a 99.5% compliance rate within 24 hours."
- The disputed domain name <recurbate.me> neither exhibits confusing similarity to the Complainant's CHATURBATE trademark nor demonstrates any indication of being registered or used in bad faith.

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

## 6. Discussion and Findings

### Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The First Respondent submitted that it has no affiliation with <recurbate.net> disputed domain name and that it cannot be held accountable for their actions or operations. The Second Respondent did not respond.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the design, layout and content of the two websites was the same or substantially similar. It could be the case that the Second Respondent has copied the First Respondent's website. The Panel consider this to be unlikely. The privacy notices and FAQs are identical. The term "recurbate" is uncommon, and it is unlikely that two unrelated entities would both use this term for the title of websites with the same content; at least, if there is an argument to be made on this point it has not been advanced by the Respondents.

Thus, more likely than not, the disputed domain names are subject to common ownership or control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The question arises whether the CHATURBATE mark is recognizable within the disputed domain names. [WIPO Overview 3.0](#), section 1.7. The Panel has reviewed CHATURBATE and RECURBATE side-by-side. Both include "urbate". This is not a word in its own right. It appears to have been selected by the Complainant as it is the end part of the word "masturbate".

It is well established that the content of the Respondent's website is normally disregarded when assessing confusing similarity under the first element of the Policy. The test is normally therefore to be conducted by way of a side-by-side comparison of the Complainant's trademark and the disputed domain name. *Harry Winston Inc. and Harry Winston S.A. v. Jennifer Katherman*, WIPO Case No. [D2008-1267](#).

However, in certain circumstances, it is permissible for the Panel to consider the website at the disputed domain name to gain an indication of the intended meaning of or relation of the disputed domain name to the mark at issue. See *Zippo Manufacturing Company v. Domains by Proxy, LLC and Paul Campanella*, WIPO Case No. [D2014-0995](#), cited with approval in *VF Corporation v. Vogt Debra*, WIPO Case No. [D2016-2650](#); *Gravity Co., LTD. and Gravity Interactive, Inc. v. Domain Privacy Service FBO Registrant / Junior Silva*, WIPO Case No. [D2021-2648](#); and *Fenix International Limited v. Privacy services provided by Withheld for Privacy ehf / Darko Milosevic, Rocket Science Group*, WIPO Case No. [D2022-1875](#).

In the present case, the Panelist reviewed the websites at the disputed domain names and can draw the conclusion that the content of the websites affirms confusing similarity since it is clear that the Respondent sought to target the CHATURBATE trademark through the disputed domain names. Further, the letters "urbate" in the disputed domain names is a clear reference to the Complainant's trademark CHATURBATE. See section 1.15 of the [WIPO Overview 3.0](#). The website at the <recurbate.net> disputed domain name included the Complainant's name and trademark in the heading. The First Respondent is clearly aware of the Complainant, referring to the Complainant on the First Respondent's website and registering the

<recurbate.me> disputed domain name two or three days after the First Respondent was notified of the Complaint in the first dispute brought by the Complainant against the First Respondent. In that decision, cited above in Section 4, the Panelist stated:

“At the time of filing of the Complaint, the websites at the disputed domain name advertised themselves as “The Chaturbate Archive” and claimed to contain millions of hours of video by hundreds of thousands of Chaturbate performers. The websites claimed that they record live adult webcam broadcasts by performers from “chaturbate.com” for watching later. These statements support a conclusion that the Respondent likely sought to target the Complainant’s Chaturbate platform and its CHATURBATE trademark with the disputed domain names and the associated websites.”

This demonstrates that the First Respondent originally selected the “recurbate” name because of its association with the Complainant and its marks.

In the circumstances, the Panel concludes that the disputed domain names are confusingly similar to the Complainant’s trademark for the purposes of the Policy.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Based on the evidence before the Panel, none of the circumstances listed in paragraph 4(c) apply in the present circumstances.

The Panel finds that it is more likely than not that the Respondent has indeed engaged for financial gain in an illegitimate offering and distribution of copyright-infringing content, which does not support a finding that the Respondent has rights or legitimate interests in the disputed domain names. Copying and rebroadcasting another’s content using an intentionally confusing domain name is not legitimate.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Respondent has registered at least five domain names involving the term “recurbate”, has admitted to copying the Complainant’s broadcasts, and registered one of the disputed domain names immediately after a prior complaint was filed by the Complainant and notified to the Respondent.

The Panel finds that a pattern of bad faith (paragraph 4(b)(ii) of the Policy) and an intent to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark (paragraph 4(b)(iv) of the Policy). See also [WIPO Overview 3.0](#), section 3.4.

The Panel finds that the Complainant has established the third element 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 <recurbate.me> and <recurbate.net> be transferred to the Complainant.

*/John Swinson/*

**John Swinson**

Sole Panelist

Date: January 29, 2024