

ADMINISTRATIVE PANEL DECISION

Genesis Teknoloji ve Bilişim Hizmetleri A.Ş v. Kacee Jackson
Case No. D2024-0432

1. The Parties

The Complainants are Genesis Teknoloji ve Bilişim Hizmetleri A.Ş, Türkiye (“the first Complainant”), and Miracle Technologies Holding SGPS, LDA (Zona Franca da Madeira), Portugal (“the second Complainant”), internally represented.

The Respondents are Kacee Jackson, United States of America (“United States”) (“the first Respondent”) and Ed Legospi, United States (“the second Respondent”).

2. The Domain Name and Registrar

The disputed domain names <miraclecashfacts.com> and <mtrcstock.com> are registered with Automattic Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 30, 2024. On January 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 1, 2024, 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 2, 2024. On February 6, 2024, the Center further requested an amended Complaint to reflect the correct Registrar information. The Complainant filed an amendment to the Complaint on February 6, 2024.

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 February 7, 2024. In accordance with the Rules, paragraph

5, the due date for Response was February 27, 2024. The Response was filed with the Center on February 26, 2024.

The Center appointed Andrew D.S. Lothian as the sole panelist in this matter on March 6, 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.

On February 22, 2024, before the Response was filed, the Complainant sent an email to the Center in which it stated that the website associated with the disputed domain name was now forwarding to the domain name <mtrcstock.com>, while showing the same website content as previously. The Complainant added that "MTRC" is the short name for Metaterra Corp, its group company in the United States. The Complainant asked if it was possible to include Metaterra Corp as a co-Complainant, and whether <mtrcstock.com> would be transferred to it at the conclusion of the administrative proceeding.

On March 13, 2024, the Panel issued Procedural Order No. 1 to the Parties in which it requested the following:

By March 18, 2024, the Complainant was requested to clarify whether it sought (1) the addition of the domain name <mtrcstock.com> as a disputed domain name, and (2) the joining of Metaterra Corp as a co-Complainant in the administrative proceeding. In that connection, the Complainant was invited to have regard to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.11 and 4.12. The Complainant was informed that if it wished to add said domain name and join said co-Complainant, it should file an amended Complaint by March 18, 2024, with arguments demonstrating consolidation of Complainants, and addressing the three elements of the Policy in respect of the domain name <mtrcstock.com>.

Procedural Order No. 1 also noted that if the Complainant requested the addition of said domain name and consolidation of Complainants, the Center would request Registrar verification in respect of said domain name. If such verification provided underlying registrant information, this would be forwarded to the Complainant with an invitation to provide any further arguments in light of such underlying information.

The Respondent was invited to provide comments no later than March 23, 2024.

On March 14, 2024, the Complainant submitted an Amended Complaint (Amended Complaint No. 2) with nine annexed documents and confirmed that it wished to include <mtrcstock.com> as a disputed domain name and to join Metaterra Corp as co-Complainant in the administrative proceeding.

On March 19, 2024, the Center notified the Parties as to the identity of the underlying registrant of the additional disputed domain name <mtrcstock.com> (Ed Legospi) which differed from the registrant information relating to the disputed domain name <miraclecashfacts.com> (Kacee Jackson). The Center invited the Complainant to submit further arguments in view of the disclosed information by March 24, 2024. The Respondents were each given until April 10, 2024 within which to reply to the Complainant's submissions.

On March 20, 2024, the Complainant submitted an Amended Complaint (Amended Complaint No. 3) and made no further changes to its annexes.

On March 25, 2024, the Decision due date was extended to April 17, 2024.

On March 28, 2024, the Center received an email from a person apparently named "Christine Adams" via the email address associated with the disputed domain name <mtrcstock.com>. The author of said email requested to know whether the disputed domain names <miraclecashfacts.com> and <mtrcstock.com> had been combined into a single proceeding. The Center replied on the same date asking the sender to identify

itself and its relationship (if any) to the registrant of <mtrcstock.com>. The Center added that the proceeding was still pending and that the Respondent could reply to Amended Complaint No. 3 until April 10, 2024.

On April 10, 2024, a further email was sent to the Center under the name of Christine Adams. Said email stated that Ed Legospi was the “domain contact” for the disputed domain name <mtrcstock.com>, that Kacee Jackson was the “domain contact” for the disputed domain name <miraclecashfacts.com>, and that both individuals are authorized to manage both domain names. Accompanying this email was an Amended Response which addressed the Complainants’ combined cases regarding both disputed domain names. The author of said email did not answer the Center’s request to identify itself. The Amended Response was supplied in Microsoft Word format and the file information page discloses that ‘kacee jackson’ is the user listed in both the ‘Author’ and ‘Last Modified By’ fields.

4. Factual Background

The first Complainant states that it provides crypto asset services in Türkiye via a website at “www.miraclecash.com”, which website was created by this Complainant on January 12, 2022. The first Complainant claims (but does not provide evidence) that it has achieved significant recognition in its industry.

The first Complainant is the owner of Türkiye Registered Trademark Number 2022 003356 for the device and word mark MIRACLE CASH & MORE, registered on April 29, 2022 in Classes 9 and 36.

The second Complainant is a Portuguese entity (in Madeira Free Trade Zone) that owns a majority of the shares in a Nevada, United States company named Metaterra Corp. Metaterra Corp trades on an Over-the-Counter (“OTC”) market under the stock symbol MTRC and, according to its listing, has been a member of the OTCQB tier of OTC markets since September 2023.

The disputed domain name <miraclecashfacts.com> was registered on October 30, 2023. The disputed domain name <mtrcstock.com> was registered on February 19, 2024, i.e., after the filing of the original Complaint against the disputed domain name <miraclecashfacts.com>.

The disputed domain names are linked by having a single source of website content. The disputed domain name <miraclecashfacts.com> currently redirects to a website at the disputed domain name <mtrcstock.com>. The title of the website is “THE FACTS – Miracle Cash&More, Cashflow NFT, Metaterra (Nasdaq:MTRC) , Hakan Torehan scam”. The website purports to state what it terms are “facts” related to the Complainant’s company.¹

5. Parties’ Contentions

A. Complainant

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants contend that the disputed domain names are linked. The Complainants assert that following the filing of the original Complaint, the Respondent changed the domain name of the website associated with the disputed domain name <miraclecashfacts.com> to the disputed domain name <mtrcstock.com> in an attempt to harm the second Complainant, and to undermine the administrative proceeding.

¹The Complainant’s original screenshot of the website associated with the disputed domain name was only partially readable due to text compression, and the Panel therefore elected to view said website online. On the topic of a panel conducting such independent research of publicly available sources, see section 4.8 of the [WIPO Overview 3.0](#).

The Complainants state that the website associated with the disputed domain names defames the Complainants by putting forward unfounded allegations, and that its only purpose is to harm the Complainants.

The Complainants submit that the first disputed domain name <miraclecashfacts.com> contains the first Complainant's mark verbatim coupled with the word "facts", and may lead to the possibility of confusion by consumers. The Complainants add that the phrase "mtrc" in the second disputed domain name contains the abbreviation of the registered legal name of the company owned by the second Complainant, leading to consumers being misled as to whether the second Respondent is acting on the second Complainant's behalf.

The Complainants go on to contend that the website associated with the disputed domain names contains unfounded and defamatory posts that aim to damage the Complainants' reputation and prevent their commercial activities. The Complainants assert that the Respondents have no legitimate interests in the disputed domain names considering that their acts damage rights and commercial reputation, noting that the burden of production to come up with evidence showing that they have such rights or legitimate interests would shift to the Respondents.

The Complainants note that they have given no authorization or consent to the Respondents regarding the use of the disputed domain names. The Complainants submit that the Respondents are using the disputed domain names in bad faith to gain an unfair advantage over the Complainants' reputation, and thereby damage that reputation and infringe the first Complainant's trademark. The Complainants conclude that a review of the content at the related website demonstrates bad faith.

B. Respondents

The Respondents contend that the Complainants have not satisfied all three of the elements required under the Policy for a transfer of the disputed domain names. Notably, the Respondents contend that the website associated with the disputed domain names puts forward "100% factual information" which seeks to demonstrate "in an educational and documented-source manner, where participants can debate or dispute the facts" that the activities performed under the MIRACLE CASH & MORE mark constitute money laundering and an investment scam.

The Respondents request a finding of Reverse Domain Name Hijacking against the Complainants in respect of each of the disputed domain names, along with "reasonable attorney fees of USD 20,000", submitting that the Complainants offer no evidence in support of its assertions of bad faith, constituting a violation of the Complainants' certification.

In terms of the three elements of the Policy, the Respondents contend as follows:

With regard to the disputed domain name <miraclecashfacts.com>, the terms "miracle", "cash" and "more" are widely used in trademarks globally, underscoring a generic and descriptive nature, such that they can never be uniquely associated with a single source. With regard to the disputed domain name <mtrcstock.com>, no trademark exists for "Metaterra", "mtrc" or "mtrcstock".

There is no confusion because the first disputed domain name and the first Complainant's trademark serve different purposes and content, with the disputed domain names being clearly delineated for a news, information and parody site which does not compete with or mimic the Complainant's services. There can be no presumption of consumer confusion because the nature of the site's content and its intended audience are markedly different. The company with a previous stock symbol MTRC is affiliated with a Metaterra Corp based in the Dominican Republic, not the Metaterra Corp established in the State of Nevada, United States. No-one would confuse the disputed domain name <mtrcstock.com> with the corporation named Metaterra.

The disputed domain names are being used for noncommercial and fair use purposes to support not-for-profit reporting, commentary, and criticism. They are not monetized in any way. Sources are cited for facts and the Complainants have been given multiple opportunities to respond. There has been no attempt to sell or rent the disputed domain names, and the Parties are not competitors.

The disputed domain name <miraclecashfacts.com> is used to disseminate information, bona fide educational information, critiques, or facts related to “Miracle Cash & More” without commercial gain, constituting a legitimate interest under the Policy. This aligns with principles allowing for freedom of expression and fair use. This disputed domain name is distinguished from the Complainant’s mark by addition of “facts”, suggesting a focus on providing information or educational content rather than commercial services or products, minimizing the likelihood of confusion among the relevant public. The disputed domain name <miraclecashfacts.com> primarily engages an American audience while the Complainant’s trademark is registered solely in Türkiye, and is confined in its legal protections to Turkish territory. Such territorial rights do not impact the operation of the disputed domain name <miraclecashfacts.com>. The disputed domain name <mtrcstock.com> is not trademarked anywhere.

The registration and use of the disputed domain name <miraclecashfacts.com> was not motivated by any intention to derive benefit from the first Complainant’s trademark or its goodwill, or to confuse consumers, but to serve a bona fide informational purpose. Lawful critical discussion and consumer education which does not compete with or profit from a complainant’s business falls within the scope of fair use and contradicts the assertion of bad faith. The company Metaterra Corp does not currently trade on any stock exchange, neither name is trademarked and the terms “MTRC” and “MTRCstock” are not protected by any law.

6. Discussion and Findings

A. Preliminary Matters: request to join second Complainant, request to add second disputed domain name, consolidation of Complaints, consolidation of multiple respondents

The Complainants’ requests on this topic are described in the procedural history above.

In the present case, the Panel is content to accept the Complainant’s request to join the second Complainant to the proceedings and to add the second disputed domain name following Complaint notification. The Panel is also content to consolidate the Complainants’ respective Complaints against the Respondents. It is clear to the Panel that the registration of the second disputed domain name occurred after the filing of the original Complaint, and as a direct response to it. This seems to the Panel to bring this case within the ambit of the type of cases described in the [WIPO Overview 3.0](#), section 4.12.2, where there appears to have been an attempt to frustrate the proceedings by the registration of a new domain name subsequent to Complaint notification.

The second disputed domain name <mtrcstock.com> is closely connected to the Parties’ original dispute over the first disputed domain name. The associated website is the same website as that associated with the first disputed domain name, and therefore the content is identical. As described more fully below, the Respondents appear to be the same person or closely connected parties, and the website appears to be under common control. While the Amended Response asserts that the Respondents are different persons, it does not seek to explain or otherwise suggest that the actions of the second Respondent in registering the second disputed domain name and pointing it to the original website content were anything other than a response to the notification of the Complaint. The second Complainant is an affiliate of the first Complainant. Had the second disputed domain name been registered prior to the filing of the Complaint, the Complainants would undoubtedly have joined together at that stage and sought consolidation of their respective Complaints against the Respondents. There is no doubt in the Panel’s mind that the Complainants have a specific common grievance against the Respondents, that the Respondents have engaged in common conduct that has affected the Complainants in a similar fashion, and that it would be procedurally efficient to permit the consolidation. [WIPO Overview 3.0](#), section 4.11.1.

The Panel has considered whether it is necessary to order partial or full re-notification of the proceedings, with additional response time. [WIPO Overview 3.0](#), section 4.12.2. The Panel considers that the Respondents are closely connected entities for the reasons discussed below on the topic of consolidation of the Respondents. The Respondents received ample time to prepare the Amended Response (in fact, the Respondents were given the period between March 19, 2024 and April 10, 2024, which exceeds that provided by paragraph 5(a) of the Rules had the Panel ordered a formal re-notification of the Complaint). During that period, the Respondents have been able to prepare and file a combined Amended Response. Given their close affiliation, the Respondents have effectively been aware of the substance of the original Complaint since it was formally notified on February 7, 2024. Particularly given the outcome of this case, the Respondents have suffered no prejudice.

With regard to the consolidation of the Complaint against multiple Respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. [WIPO Overview 3.0](#), section 4.11.2.

Here, the Panel notes that while the registrants assert that they are different persons, they appear to be so closely connected as to be indistinguishable in all respects apart from the listed registrant names, and the circumstances strongly suggest that the single website is under common control. The first Respondent appears to have answered for both Respondents in its authorship of the single Amended Complaint. The disputed domain names use the same Registrar. They use the same privacy service. They use the same hosting service and nameservers. The website content is the same. A joint Response has been filed by or on behalf of the registrants of both disputed domain names. There does not appear to be any prejudice to either of the Respondents by consolidating the Complaint against them. Accordingly, it appears to be procedurally efficient to the Panel to address both of the disputed domain names in a single Complaint.

The Panel notes that the procedural history in this case is relatively unusual and justifies the joining of parties and addition of domain names after notification of the complaint. In cases where either the Complainants, the Respondents and/or the disputed domain names are not so intimately connected as they are here (and linked to the subject matter of the original dispute), a complainant's request to join a new complainant or to add a further disputed domain name after notification of the complaint, or to proceed against multiple respondents in the context of the addition of a further disputed domain name, may well be refused without prejudice to the filing of a separate complaint.

B. 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 3.0](#), section 1.7.

Disputed domain name <miraclecashfacts.com>

The Complainants have 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 Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Notably, the first element of the trademark is reproduced in its entirety. The Panel considers this to be the most distinctive aspect of the mark, being the phrase "miracle cash". The missing element, "& more", is rather less distinctive and the mark remains recognizable without it.

Although the addition of other terms, here, "facts", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established in respect of the disputed domain name <miraclecashfacts.com>.

Disputed domain name <mtrcstock.com>

Neither of the Complainants have stated that they have a registered trademark for MTRC or MTRC STOCK. The sole submission as to the Complainants' rights in this connection is that the term "mtrc" in the disputed domain name is an abbreviation of the name and stock symbol of Metaterra Corp, a company based in the United States that is majority owned by the second Complainant.

The Complainants set forth no information supporting unregistered trademark rights in the term "mtrc" whether as an abbreviation of the name of Metaterra Corp or otherwise (see the [WIPO Overview 3.0](#), section 1.3 for the kinds of evidence generally accepted by panels under the Policy to establish such a mark). There is a dispute between the Parties as to whether the term MTRC is genuinely a stock symbol of Metaterra Corp. However, even assuming no dispute over the Complainants' submissions on this topic,² company names and stock symbols are not by themselves generally accepted as source identifiers of the kind that would give rise to unregistered trademark rights under the Policy without some other supporting evidence (see, for example, *The Medicis Pharmaceutical Corporation v. MRX Technologies, Inc., and Neil Gerardo*, WIPO Case No. [D2002-0462](#) ("MRX") ("The Panel questions whether mere use of a stock ticker symbol with investors can ever rise to the level of creating common law "trademark rights" within the meaning of Paragraph 4 of the Policy because the ticker nickname use is not use of a brand name to identify the particular product or service of the proprietor. In any event, a finding that a stock ticker symbol has been used in a trademark sense sufficient to give rise to common law rights would require more compelling proof than has been presented by the Complainant here.") and *Staten Island Bancorp, Inc., and SIB Mortgage Corporation v. Ifg Inc.*, WIPO Case No. [D2003-0384](#) ("A stock symbol does not associate [a complainant] with any specific goods or services, or otherwise establish in the minds of the public any relationship between that symbol and any such goods or services.")).

Even had the Complainants established the existence of unregistered trademark rights arising from the use and public recognition (as source identifier) of Metaterra Corp's alleged abbreviated name or stock ticker, there were no submissions in the Complaint explaining how such unregistered mark would necessarily have vested in the second Complainant, whether by virtue of its capacity as majority shareholder of Metaterra Corp or otherwise. However, had such rights been established, the Panel would probably have accepted that the mark belonged to an entity affiliated to the Complainants. [WIPO Overview 3.0](#), section 1.4.1.

The Panel has not overlooked the fact that the website content, insofar as it makes reference to the Complainants' alleged unregistered MTRC mark, might, in and of itself, support the Complainants' assertion that the term MTRC has achieved significance as a source identifier. [WIPO Overview 3.0](#), section 1.3. However, that section provides that the strength of the claimed mark is also a relevant consideration. Here, the sole basis for the contended mark is a stock symbol and an alleged (unevidenced) abbreviation of an affiliate's corporate name. The context in which the Respondents' website refers to the alleged MTRC mark is that of a stock symbol. As noted above, the panel in MRX, supra, found that such a symbol would only give rise to unregistered rights if accompanied by compelling proof. Such proof is absent here, and in the Panel's view, that cannot be cured by a reference to the stock symbol in the Respondents' website content. Furthermore, the panel in *Staten Island*, supra, took the view that a stock symbol, on its own, is incapable of establishing the necessary relationship. The Complainants' only other submission on this topic refers to the alleged abbreviation of its affiliate's company name, which is unsupported by any evidence of the extent to which the entity concerned is known by its abbreviation by the relevant public. Again, where there is otherwise a lack of sufficient evidence of unregistered trademark rights, the fact that a respondent has targeted a complainant's mark "[c]ould not constitute the sole evidence of unregistered rights" (*CEMEX UK Operations Ltd. v. Privacy Service Provided by Withheld for Privacy ehf / Cargo Logistics Transportation*

² In this connection, the Panel notes that the Respondents' own website refers to a NASDAQ stock ticker "MTRC" in connection with an organization apparently named "Meteterra" [sic].

Services, Cargo Logistics Transportation Services; South Coast Shipping Company, South Coast Shipping Company; and Cargo Logistics, Cargo Logistics Transportation Services, WIPO Case No. [D2022-1445](#)).

In these circumstances, first element of the Policy has not been established in respect of the second disputed domain name <mtrcstock.com> and the Complaint fails to that extent. The Panel notes for completeness that even if this were not the case, the Complaint would fail on the remaining elements as to this disputed domain name.

C. Rights or Legitimate Interests

The Panel finds that the first Respondent has made a legitimate noncommercial or fair use of the first disputed domain name <miraclecashfacts.com>. [WIPO Overview 3.0](#), section 2.6. The disputed domain name here is used in association with a website that purports to criticize the Complainant and its business activities. As noted in said section, to support fair use under paragraph 4(c)(iii) of the Policy, the Respondent's criticism must be genuine and noncommercial and not a pretext for cybersquatting, commercial activity, or tarnishment. Section 2.6.2 of the [WIPO Overview 3.0](#) goes on to note that a general right to legitimate criticism does not necessarily extend to registering or using a domain name identical to a trademark, while section 2.6.3 adds that where a domain name is not identical to the complainant's trademark but comprises the mark plus a derogatory term, panels tend to find that the respondent has a legitimate interest in using the trademark as part of the domain name of a criticism site if such use is prima facie noncommercial, genuinely fair, and not misleading or false. Considering the composition of a domain name generally, section 2.5.1 of the [WIPO Overview 3.0](#) notes that where a domain name consists of a trademark plus an additional term, panels under the Policy have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner ("the impersonation test").

Here, the first disputed domain name <miraclecashfacts.com> contains an abbreviated version of the first Complainant's mark coupled with the word "facts". Dealing with the significance of the abbreviation first, the Panel considers that this is somewhat less likely to be viewed by the public (as the first Complainant's domain name, in other words, effectively an impersonation of the first Complainant, while noting that this does not affect the finding of confusing similarity under the first element where the test is a straightforward side-by-side comparison. The Panel considers that the abbreviation of a complainant's mark in a domain name does not signal to the public that the domain name necessarily belongs to or is operated by that complainant, unless, for example, there is evidence that the complainant habitually refers to itself by that abbreviation. No such evidence has been brought forth by the Complainants here.

The Panel turns to consider the addition of the term "facts" in the first disputed domain name <miraclecashfacts.com> and asks itself whether this signals criticism and/or whether it constitutes impersonation of the first Complainant. "Facts" is not a derogatory term, and is at best neutral. It does not necessarily signal to an Internet user that it will find criticism on the related website. However, it does suggest that content at the disputed domain name is likely to feature some form of commentary upon a complainant's activities rather than necessarily that the domain name concerned is operated by such complainant itself. An entity in the position of the first Complainant would almost certainly publish "facts" about itself, for example in the "About Us" section of a website, but would be unlikely to feel the need to use the word "facts" in a domain name to do so. It is more likely simply to refer to its name or mark alone in a domain name.

In all of these circumstances, the Panel considers that, based on assessment of the facts and circumstances presented in this case, and noting the relative neutrality of the term "facts", the first disputed domain name <miraclecashfacts.com> does not fall foul of the "impersonation test" outlined above. The Panel adds for completeness that no evidence has been placed before it by the Complainant showing or tending to show that the Respondent's criticism is not genuinely intended (bearing in mind it is not for the Panel to assess whether content is defamatory or not) or is merely a pretext for cybersquatting, commercial activity, or tarnishment. It is the view of some panels under the Policy that the impersonation test should form part of a wider inquiry into the facts and circumstances in what would amount to a more holistic test (see: *Everytown*

for *Gun Safety Action Fund, Inc. v. Contact Privacy Inc. Customer 1249561463 / Steve Coffman*, WIPO Case No. [D2022-0473](#)). Even if such holistic test were to be deployed here, the Panel is satisfied that the Respondents would still prevail due to the apparent genuineness and nature of the Respondent's criticism (in the sense of being genuinely intended (even if highly critical, or containing opinion) rather than pretextual), the noncommercial aspect of the related website, and the use of the domain name with the qualifying term "facts".

Although the point is moot with regard to the second disputed domain name, as is noted above, the Panel notes for completeness that had the Complaint succeeded in the applicable first element analysis, a similar approach on the second element analysis would have given rise to a similar result. Assuming the Complainants had established unregistered trademark rights in the mark MTRC, the second disputed domain name is composed of this term together with the word "stock". Such word is similarly neutral, and the Panel considers that it is unlikely to be used by the Complainants to refer to themselves but rather to signal that a discussion regarding the merits of the stock concerned is likely to be found on an associated website. This is equally nuanced, but the Panel considers that it too could not be considered as impersonating either of the Complainants. Again, if the holistic test were to be deployed, the Respondents would prevail for the reasons outlined above as there is no difference in the associated website content.

Although the Complainants consider that they are being defamed by the website associated with the disputed domain names, as has been noted in many previous cases, the Policy is not a substitute for an action of defamation, which may be a course of action open to the Complainants (see, for example, *Chesterfield Valley Investors, L.L.A dba Gateway Classic Cars of St. Louis v. Brock Winters*, WIPO Case No. [D2019-1380](#), "[...] it is beyond the scope of this proceeding to evaluate the legitimacy or truthfulness of Respondent's criticism, which is best left to a court of competent jurisdiction in the nature of an action sounding in defamation").

The Panel finds the second element of the Policy has not been established.

D. Registered and Used in Bad Faith

As the Complaint has failed on the second element, no good purpose would be served by discussing the third element in any detail, and it is not necessary to make a finding in this respect. The Panel notes however that the fact that a domain name containing a complainant's mark (and/or an abbreviation thereof) is registered and used for the purposes of criticism of that complainant would not necessarily be regarded as a bad faith activity unless the criticism was a pretext for cybersquatting, commercial activity or tarnishment, or the domain name effectively impersonated the complainant and thus was itself deceptive and likely to confuse the public.

E. Reverse Domain Name Hijacking

Paragraph 15(e) of the Policy provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

In the present case, the Panel does not consider that the Complaint was brought in bad faith or was certain to have failed at the outset. The first Complainant was entitled to test whether the first disputed domain name passed the impersonation test in light of the neutrality of the additional term "facts" and the Panel has recorded its analysis as presenting a nuanced assessment in that respect. With regard to the second disputed domain name, this was registered by the Respondents, who the Panel have found are connected parties, as a response to the notification of the Complaint, and in a likely attempt to frustrate the proceeding. The Complainants' response to such registration of seeking to add the second disputed domain name and to partially redirect the Complaint strikes the Panel as entirely reasonable in the particular circumstances of this case. Accordingly, the request for a finding of Reverse Domain Name Hijacking is denied. It is not

competent to seek an order for payment of attorney's fees in administrative proceedings under the Policy as the Panel has no power to make such an order.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: April 17, 2024