

## ADMINISTRATIVE PANEL DECISION

Mav Media, LLC v. F. A.  
Case No. D2024-0742

### 1. The Parties

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

Respondent is F. A., United States, self-represented.

### 2. The Domain Name and Registrar

The disputed domain name <thecamdude.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 18, 2024. On February 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 19, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy service provided by Withheld for privacy ehf) and contact information in the Complaint. The Center sent an email to Complainant on February 20, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on the same date.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on February 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 18, 2024. The Response was filed with the Center on March 16, 2024.

The Center appointed Robert A. Badgley, Philippe Gilliéron and Warwick A. Rothnie as the Panel in this matter on April 9, 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

Complainant operates a pornography website (at “www.camdudes.com”) that focuses on males. Complainant’s site states, among other things: “Watch Unlimited Free Male Cams.” The site also offers “interactive male sex,” apparently consisting of face-to-face virtual encounters with actual porn stars.

Complainant holds a registered trademark for CAMDUDES with the United States Patent and Trademark Office (“USPTO”), Reg. No. 5,186,618, registered on April 18, 2017, with an October 1, 2015, claimed date of first use in commerce. Other than the “first use” date indicated on the USPTO registration, there is no evidence in the record to reflect when Complainant or its predecessor first began using the CAMDUDES mark in commerce. This mark was originally registered by Complainant’s predecessor, but was conveyed to Complainant by assignment effective December 10, 2020. The services provided under this CAMDUDES mark are as follows:

“CLASS 38: Telecommunication services, namely, transmission of video, audio, voice, data, and text by means of telecommunication networks, the Internet and/or wireless communication networks; Live streaming of audio, visual and audiovisual information using a global computer network.”

“CLASS 42: Providing a website that gives computer users the ability to upload and stream live videos; Providing an online non-downloadable Internet-based system application featuring technology enabling users to stream live broadcasts of audio, visual and audiovisual material via an electronic global network both for websites and applications, through wireless communication networks, the Internet, and/or information services networks.”

According to Complainant, the Domain Name was registered on August 12, 2018. According to Respondent, however, the Domain Name was registered on May 26, 2016, and later acquired by Respondent. Respondent provides a screenshot which appears to corroborate this earlier registration date for the Domain Name in the name of an individual located in France. Respondent asserts he obtained “our mark and domain, THECAMDUDE aftermarket in a private deal, and transferred rights and goodwill from a third party that predates the complainants trademark registration.”

The Domain Name resolves to a website that aggregates numerous porn websites and provides reviews of them. Some of the porn sites aggregated and reviewed at Respondent’s website feature male porn, but most of the sites aggregated at Respondent’s site feature many other categories of porn. Respondent’s site features a cartoon mascot of a bearded male with glasses and a mobile phone, known on the site as “the Cam Dude.”

According to Complainant, Respondent’s Domain Name “resolves to a website that lists and reviews adult websites, including adult cam sites that directly compete with Complainant, thus diverting internet traffic to Complainant’s direct competitors.”

Respondent asserts that “The Cam Dude” made its first appearance on YouTube back in 2008, and annexes to the Complaint an apparent YouTube screenshot showing that someone called “@thecamdude” joined YouTube on October 6, 2008. Respondent provides no other evidence of its purported presence or activities on YouTube, or any other activities in 2008 or the immediately following years.

Respondent filed an application (Serial No. 90241805) with the USPTO to register the mark CAMDUDE, but on March 9, 2021, the USPTO issued a Nonfinal Office Action which rejected the trademark application. Among other things, the USPTO Examiner stated:

“In sum, given the similarity between the respective marks when viewed in light of the relatedness between the respective services as well as the similarity between the channels of trade for such services, it is likely that consumers will be confused as to the ultimate source of these services and associate the registered mark CAMDUDES with the applicant’s proposed mark.”

Respondent claims that he had no knowledge of Complainant’s CAMDUDES mark until he received the USPTO’s March 9, 2021, rejection letter.

On November 3, 2023, Complainant’s counsel sent Respondent a cease-and-desist letter stating, among other things:

“Mav Media owns the CAMDUDES mark in connection with online video chat services. Mav Media and its predecessor-in-interest have been using the CAMDUDES mark in connection with these services in the United States and around the world for more than eight years. During this time, the CAMDUDES brand has established a significant online presence, ranking #422,278 globally on HypeStat, and enjoys a high level of user loyalty with a Net Promoter Score of 67, comparable to reputable companies like Samsung and Softcat. Recognized in the industry, CAMDUDES is listed among top gay cam sites by Metro Times and Cleve Scene, affirming its competitive positioning and consumer preference in the market. The CAMDUDES mark is distinctive, famous, and closely identified with Mav Media, and represents substantial, valuable goodwill.”

On November 20, 2023, Respondent’s counsel responded substantively to Complainant’s cease-and-desist missive, denying that Respondent had knowledge of Complainant’s mark or website when registering the Domain Name, asserting Respondent’s legitimate business, and expressing a willingness to sell the Domain Name to Complainant.

On November 29, 2023, Complainant’s counsel conveyed an offer to purchase the Domain Name for USD 3,000.

## **5. Parties’ Contentions**

### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

### **B. Respondent**

Respondent contends that he registered the Domain Name in good faith, without knowledge of Complainant’s mark, and has used it in connection with a legitimate business that no reasonable consumer would confuse with Complainant’s services.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

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

The Panel finds that Complainant has rights in the mark CAMDUDES through registration demonstrated in the record. The Panel also finds that the Domain Name is confusingly similar to that mark. The Domain Name removes the pluralizing “s” from the mark and adds the definite article “the.” In the Panel’s view, the mark remains recognizable within the Domain Name, notwithstanding these changes.

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

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

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel need not consider this element, given its conclusion below regarding the “Bad Faith” element.

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

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes, on the somewhat spotty record provided by the Parties, that Complainant has failed to carry its burden of proving that Respondent registered and used the Domain Name in bad faith within the meaning of the Policy.

Most simply put, Complainant has not provided sufficient evidence for the Panel to disbelieve Respondent's denial of knowledge of Complainant's mark at the time the Domain Name was registered (regardless of which Domain Name registration date is accepted). First, notwithstanding its registration status, in the Panel's view the mark CAMDUDES is not an inherently strong trademark. It is suggestive (in the trademark sense), as it alludes to men on camera, which is essentially what Complainant offers via that mark.

Second, Complainant has provided no evidence of the mark's renown at the time the Domain Name was registered.

Third, while the Parties both provide services to the porn-consuming public, their services are not identical. Complainant provides a website featuring male porn, and Respondent aggregates porn sites of myriad types and provides reviews of such sites.

In these circumstances, the Panel cannot conclude that Complainant has proven, on a balance of probabilities, that Respondent more likely than not targeted Complainant's CAMDUDES mark.

The Panel also notes that there are holes in both Parties' respective stories. For instance, as noted, the renown of Complainant's mark at the crucial moment in time is not apparent from the record. Likewise, Respondent's alleged 2008 YouTube presence is not given much weight by the Panel here because Respondent has not provided evidence that connects the dots between Respondent and the purported YouTube member going by the name "@thecamdude".

These gaps in the record reinforce the Panel's disinclination to address the "Rights or legitimate Interests" element, and the Panel's conclusion that this dispute is better suited for resolution in a court of law, where discovery may help to develop the factual picture and support or refute the Parties' allegations, and the examination and cross-examination of witnesses may do the same. Also, traditional trademark principles, as opposed to the principles underlying the UDRP, may be better suited to resolve the dispute between these Parties.

In sum, on this record, the Panel does not find this to be a clear case of cybersquatting.

Complainant has not established the third element of the Policy. The Complaint therefore fails.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Robert A. Badgley/*

**Robert A. Badgley**

Presiding Panelist

*/Philippe Gilliéron/*

**Philippe Gilliéron**

Panelist

*/Warwick A. Rothnie/*

**Warwick A. Rothnie**

Panelist

Date: April 23, 2024