

ADMINISTRATIVE PANEL DECISION

MarineMax, Inc. v. Norman Jensen
Case No. D2024-2587

1. The Parties

The Complainant is MarineMax, Inc., United States of America (“United States”), represented by Holland & Knight, LLP, United States.

The Respondent is Norman Jensen, United States.

2. The Domain Name and Registrar

The disputed domain name <marinemaxusa.com> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 25, 2024. On June 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 26, 2024, 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 (Registration Private, Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 28, 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 June 28, 2024.

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

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 22, 2024.

The Center appointed Evan D. Brown as the sole panelist in this matter on July 26, 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 in the business of marketing and selling boating equipment and supplies and related products and services. It owns the mark MARINEMAX, for which it enjoys the benefits of registration in the United States (e.g., Reg. No. 2,317,088, registered on February 8, 2000).

According to the Whois information, the disputed domain name was registered on May 3, 2024. The Respondent has used the disputed domain name to set up a website that the Complainant characterizes as an apparent effort to lure website visitors to submit their personal information in order to request a consultation with a “boating specialist” and presumably purchase a boat. The Complainant has presented evidence suggesting that the purported operations of the Respondent are bogus, because the physical address on the Respondent’s website is for an empty lot in Oklahoma. And the website displays product images copied from the Complainant’s website.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant’s trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name, and (iii) the disputed domain name has been registered and is being used in bad faith. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7. 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. *Id.* This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the MARINEMAX mark by providing evidence of its trademark registrations. See [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name incorporates the MARINEMAX mark in its entirety with the term “usa”, which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s MARINEMAX mark. See [WIPO Overview 3.0](#), section 1.8. The MARINEMAX mark remains recognizable for a showing of confusing similarity under the Policy.

The Panel finds that the Complainant has established this first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a prima facie showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts, among other things, that (1) the Respondent is not related to, affiliated with, endorsed by, nor otherwise associated with the Complainant, (2) the Respondent has not sought from the Complainant, nor has the Complainant granted to the Respondent authorization, permission, or license to use the MARINEMAX mark, (3) there is no evidence that the Respondent has been known by the disputed domain name, and (4) the use of the disputed domain name is not a bona fide use, in that it seeks to imitate the Complainant through the use of the Complainant’s marks and its product images.

The Panel finds that the Complainant has made the required prima facie showing. The Respondent has not presented evidence to overcome this prima facie showing. And nothing in the record otherwise tilts the balance in the Respondent’s favor.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent’s bad faith use and registration. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent “[uses] the domain name to intentionally attempt 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 a product or service on [the respondent’s] website or location”.

The Panel finds that the Respondent registered and is using the disputed domain name in bad faith. Registering and using the disputed domain name to set up a website that copies elements of the Complainant’s website in this manner, in an attempt to lure and confuse website visitors is a clear example of bad faith registration and use under the Policy. *Gilead Sciences, Inc. v. Fred Feiler*, WIPO Case No. [D2020-1428](#). The Respondent’s apparent use of false contact information on the website it published bolsters the notion of bad faith. *Simpson Thacher & Bartlett LLP v. Leonard Norris*, WIPO Case No. [D2022-2484](#).

Accordingly, the Panel finds that the Complainant has established this third element under 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 name <marinemaxusa.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: August 9, 2024