

ADMINISTRATIVE PANEL DECISION

Steven G Papermaster alias Steve Papermaster v. Mark Smith, Mark Smith
Case No. D2024-3059

1. The Parties

The Complainant is Steven G Papermaster alias Steve Papermaster, United States of America (“United States”), represented by De Penning & De Penning, India.

The Respondent is Mark Smith, Mark Smith, Australia.

2. The Domain Name and Registrar

The disputed domain name <stevenpapermaster.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 26, 2024. On July 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 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 (Domains By Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 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 amended Complaint on July 29, 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 August 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2024. The Respondent sent email communications to the Center on August 7 and 23, 2024. The Complainant responded on September 4, 2024. On September 12, 2024, the Center received an email from one Kell C. Mercer, claiming to be the Court Appointed Receiver for the Complainant. On September 19, 2024, the Center received an email from Australian attorneys representing the Respondent.

The Center appointed Jeremy Speres as the sole panelist in this matter on September 12, 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, of Austin, Texas, United States, describes himself as a recognized expert and leader in technology entrepreneurship, public policy, and energy efficiency. He has acted in various positions within the United States government, including as a member of the President's Council of Advisors on Science and Technology. The Complainant's prior engagements include being the co-founder of the Ernst & Young World Entrepreneur of the Year program, a speaker at various TedX talks, an author at "www.inc.com", the CEO of Nano Cures International (described by the Complainant as enabling real-time, molecular-level detection of diseases), the Chairman of Powershift Group (described by the Complainant as catalysing early-stage companies by assembling talent, capital, and leadership) and JUCCE (described by the Complainant as leading efforts for efficient use of energy and technology in China).

The Complainant owned the domain name <stevepapermaster.com> from 2014 and operated his primary website from that domain name¹.

The disputed domain name was registered on February 19, 2022, and resolves to a website featuring photographs of the Complainant, and containing various accusations about the Complainant, including that he is a "conman" and a "fraudster".

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 name. Notably, the Complainant contends that he enjoys common law rights in his alias STEVE PAPERMASTER, and the disputed domain name was registered and has been used in bad faith for the purpose of defamation, copyright infringement, privacy violations, harassment, cybercrime, and extortion.

B. Respondent

The Respondent refers to two written receivership orders of the courts of Texas, United States, and contends that the Complainant's non-exempt assets including his trademark rights have been placed into receivership, and as such, the Complainant has no standing to bring these proceedings.

The Respondent further contends that the Respondent has purchased, from the Complainant's Court Appointed Receiver, the domain name <stevepapermaster.com> and all trademark rights in that particular domain name. As such, the Respondent claims that the Complainant does not own the trademark rights he claims to own, and the Respondent calls on the Complainant to transfer the Complainant's domain name <stevepapermaster.com> to the Respondent.

¹ As described further below, the Respondent has evidenced his purchase of this domain name from the Court Appointed Receiver and the Panel notes that the domain name no longer appears to resolve to any website.

6. Discussion and Findings

A. Supplemental Filings

The Complainant and the Respondent each filed unsolicited supplemental filings.

Paragraphs 10 and 12 of the Rules in effect grant the Panel sole discretion to determine the admissibility of unsolicited supplemental filings. Admissibility of supplemental filings is to be assessed based on relevance, foreseeability, the need to conduct the proceedings with due expedition, and the equal treatment of the parties so that each has a fair opportunity to present its case. Paragraph 10(b) of the Rules; *Société aux Loteries en Europe, SLE v. Take That Ltd.*, WIPO Case No. [D2007-0214](#); WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.6.

The Respondent's second email to the Center of August 23, 2024, was unsolicited and was filed after the Response deadline. That email nevertheless addressed matters that arose after the Respondent filed its initial Response on August 7, 2024. In particular, it addressed the Respondent's purported purchase of the domain name <stevepapermaster.com> and associated trademark rights, which occurred after the Respondent filed its initial Response. That is at least superficially relevant to the dispute at hand and could not reasonably have been included in the Response due to its timing. To that extent, the Panel admits the Respondent's second email of August 23, 2024.

The Complainant's email to the Center of September 4, 2024, addressed issues raised in the Respondent's email of August 23, 2024, which could not reasonably have been anticipated. To that extent, the Panel admits the Complainant's email of September 4, 2024.

The email from the Respondent's attorneys dated September 19, 2024, merely reiterated the Respondent's claims in the Response that the Complainant has no standing given the Complainant's receivership. That email included further orders from the courts of Texas, United States, relating to the Complainant's receivership, all of which predate the Respondent's Response. That email does not take the Respondent's Response any further, and the material contained within it could reasonably have been anticipated by the Respondent. The Panel therefore declines to admit that email.

B. Identical or Confusingly Similar

The Complainant claims common law rights over his alias STEVE PAPERMASTER, which corresponds closely to his personal name STEVEN G PAPERMASTER, and which the Complainant claims has garnered a reputation.

The Complainant's evidence in this regard is largely limited to his roles as a business executive in various companies and his positions within various government agencies. Very little if any evidence is presented showing that the Complainant has used his alias as a distinctive identifier of his goods or services, i.e., as a source identifier, as required to establish unregistered or common law rights. [WIPO Overview 3.0](#), sections 1.3 and 1.5.

The Panel accepts that the Complainant enjoys a reputation, however, "[m]erely having a famous name (such as a businessperson or cultural leader who has not demonstrated use of their personal name in a trademark/source-identifying sense), or making broad unsupported assertions regarding the use of such name in trade or commerce, would not likely demonstrate unregistered or common law rights for purposes of standing to file a UDRP complaint."

The Panel in *Boris Johnson v. Belize Domain Whols Service Lt*, WIPO Case No. [D2010-1954](#) succinctly stated the requirement in relation to personal names:

"...the relevant inquiry is whether Complainant has used his or her personal name as a marketable commodity, for a fee to promote another's goods or services, or for direct commercial purposes in the

marketing of his or her own goods and services...In other words, Complainant's personal name must be used such that a relevant segment of the public comes to recognize the name as a symbol that distinguishes his or her goods and services from those of others."

Specifically in relation to businesspeople such as the Complainant, what is required was elegantly set out by the Panel in *Israel Harold Asper v. Communication X Inc.*, WIPO Case No. [D2001-0540](#):

"The pure business cases are more problematic. An obvious difference between them and the above situations is that it is less likely that a businessperson will use his or her name to market their own goods or services, and very unlikely that they will do so to market someone else's. Take, by way of examples, Henry Luce, Kenneth Thomson, Conrad Black and Rupert Murdoch. Are their publications marketed as a product connected to the person in question? Not likely. It is also not likely that someone would pay a fee to use these names in the promotion of a good or service with which they have no connection. Yet, each of these gentlemen is or was a famous businessman with a very high profile in the publishing business and held in high regard by many. This doesn't mean that a businessperson's name is not entitled to protection as a Domain Name. As demonstrated in the Supreme Court of Canada decision in *Hurlbut Co.Ltd. v. Hulbut Shoe* [1925] 2 D.L.R. 121 a person may be able to use his personal name to prevent its improper use if he or she can show that if 'all persons whom in any way it concerns' has come to know that a particular article associated with his or her name means that he or she is responsible for its source. Under this circumstance, the personal name takes on a secondary meaning. Probably, when the T.Eaton Co. was owned by Timothy Eaton and Macy's owned by someone of that name, their names could have been protected on this basis. There is no evidence in the Complaint that the name of the Complainant has formed a part of the name of any of his companies."

The only evidence presented by the Complainant of use of his alias in a manner potentially meeting this requirement is his presentation of two TedX talks in 2018 and 2019, his claimed authorship at "Inc.com", and his use of the domain name <stevepapermaster.com>. In the case of the TedX talks, each video on YouTube has attracted roughly 1,200 and 2,100 views on YouTube after six and five years respectively. Based on quantum alone, this evidence on its own appears insufficient to establish unregistered trademark rights. In any event, it is questionable whether use of the Complainant's alias in relation to these talks constitutes use in commerce of the alias as a source identifier. No evidence was led concerning, e.g., whether the Complainant was paid for these talks, and it appears more likely that, if any source identifying trademark was used for these talks, it was "TedX" rather than "Steve Papermaster".

With respect the Complainant's authorship at "Inc.com", the link provided by the Complainant no longer appears to resolve to any citation to the Complainant as an author. However, via the website archives, the Panel did find a screenshot of the website that cited a single article by the Complainant from 2001. As with the TedX talks, it appears more likely that this article would have been identified as to source by reference to "Inc.com". Moreover, given the seemingly limited availability of the article and its 2001 publication, its relevance seems minimal if any even when weighed together with the totality of the circumstances expressed above and below.

Regarding use of the domain name <stevepapermaster.com>, the Respondent's evidence establishes that the Respondent purchased this domain name, and possibly any trademark rights associated with it, from the Court Appointed Receiver. This was not disputed by the Complainant, nor contradicted by the Court Appointed Receiver in his correspondence with the Center. For purposes of the Policy, the Complainant would then appear to no longer have any rights in this domain name and – especially in light of the factors set out above concerning the claimed use of his name as a mark – cannot rely upon it in order to establish common law rights.

The Panel therefore does not accept that the Complainant has proven, on balance of probabilities, that he owns common law rights in his alias.

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

The Panel notes the Respondent's assertion that the placement into receivership of the Complainant's rights in the disputed domain name negates his standing to bring these proceedings. There is no need for the Panel to decide this point given the findings raised above, and this Decision should not be read as expressing any view on that question.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: October 2, 2024