

## **ADMINISTRATIVE PANEL DECISION**

The United States Playing Card Company v. Shahul Rahman  
Case No. D2024-4063

### **1. The Parties**

The Complainant is The United States Playing Card Company, United States of America (“United States”), represented by IP Hills NV, Belgium.

The Respondent is Shahul Rahman, United Kingdom.

### **2. The Domain Name and Registrar**

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 3, 2024. On October 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 3, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 7, 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 October 10, 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 October 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2024. The Respondent sent email communications to the Center on October 29, October 31 and November 1, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on November 13, 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 United States manufacturer of playing cards, founded in 1867, and acquired in 2019 by the Belgian privately owned Cartamundi, which is one of the world's leading manufacturers of card and board games and digital solutions. With a network of owned sales offices, state-of-art manufacturing facilities, and a workforce of over 2,500 people in 2019, Cartamundi is a prominent and growing supplier to the global cards, games, and toys industry.

In 2023, the Complainant launched "Cardtopia", a global platform that unites and celebrates diverse communities of card enthusiasts such as collectors, magicians, gamers and poker players, both digitally and physically. Cardtopia was launched on November 4, 2023, with a public event held in the city of New York, where various communities enjoyed a series of master classes, talks and performances from world-renowned talents.

The Complainant owns trademark registrations for CARDTOPIA, such as the following:

- the International trademark registration number 1767800 for CARDTOPIA (word), registered on November 2, 2023, designating inter alia the United Kingdom, and covering goods and services in International classes 25, 28, 35 and 41; and
- the European Union trademark registration number 018869524 for CARDTOPIA (word), filed on May 2, 2023, registered on November 9, 2023, covering goods and services in International classes 25, 28, 35 and 41.

The Complainant, through its parent company, owns domain names incorporating the trademark, such as the domain names <cardtopia.com> acquired on September 27, 2023; <cardtopia.info> registered on April 21, 2023 and <cardtopia.world> registered on April 21, 2023.

The disputed domain name was registered on November 8, 2023, and, at the time of filing of the Complaint, it resolved to a website promoting trading cards. On the top of such website there was an add stating "This is a demo store for testing purposes – no orders shall be fulfilled", and a note posted on the left side read "10% off Everything. Launch sale! Shop now". According to evidence in the Complaint, such content is unchanged since, at least April 15, 2024.

#### **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 the disputed domain name is confusingly similar to its trademark CARDTOPIA because the entirety of its mark is reproduced within the disputed domain name with an additional letter "x" in the middle, which does not change the overall impression of the designation as being connected to the Complainant's trademark, moreover, this can be perceived as an obvious or intentional misspelling of the Complainant's trademark; the Respondent has no rights or legitimate interests in the disputed domain name; the Respondent does not own valid trademark rights over "cardxtopia"; the disputed domain name was registered in bad faith as it reproduces the Complainant's CARDTOPIA fanciful

trademark, which is inherently distinctive in relation to the Complainant's activities; the registration of the disputed domain name a few days after the Complainant filed a territorial extension of its CARDTOPIA mark through WIPO and a few days after the first CARDTOPIA event was held in New York City strongly suggests that the Respondent knew of the Complainant and only registered the disputed domain name containing the Complainant's trademark following the filing of its international trademark and the press coverage, this timing suggests opportunistic bad faith in violation of the Policy; additionally, the Respondent registered the disputed domain name shortly after the Complainant's parent company acquired the domain name <cardtopia.com> from a third party; the disputed domain name has been registered and is being used in bad faith, to attempt to divert Internet users to the Respondent's website since, at the time of filing the Complaint, the disputed domain name directs to a website with an online store specializing in trading cards, and, even if such website claims it's only a demo store, there is no contact form or any contact details of the entity operating the website under the disputed domain name; furthermore researches made through the Wayback Machine reveal that the same content, with the "demo store" and competing products (trading cards), was displayed almost half of year before the date of the Complaint.

## **B. Respondent**

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

The Respondent sent several email communications to the Center, stating mainly that he consents to cancel or transfer the disputed domain name to the Complainant. Also, he claims that "(t)his site was a demo site for me to practice making a website for a prospect idea but never went through it".

## **6. Discussion and Findings**

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### **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 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.

Although the addition of the letter "x" here, placed between the words composing the mark, may bear on assessment of the second and third elements, the Panel finds the addition of such letter, a misspelling of the mark, 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 1.9.

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

## **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 name. 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 name such as those enumerated in the Policy or otherwise.

In the Respondent’s email communications, the Respondent states that he created a demo site for himself, in order to practice making a prospect idea. This Panel does not accept such claim as a legitimate or bona fide use since, creating a demo/test/presentation site comprising a third party’s trademark, without any authorisation from the trademark holder, in order to promote goods competing with the goods under the trademark, and the lack of any disclaimer on such website, cannot be considered a bona fide use. To the contrary, the Respondent’s communications can be considered as an acknowledgement of the Complainant’s rights in CARDTOPIA trademark, correlated with the Respondent’s lack of rights or legitimate interests in the disputed domain name.

The Panel further notes the composition of the disputed domain name, reproducing the Complainant’s trademark, with a minor alteration. There is a risk that Internet users will not notice the subtle misspelling. In the present case, the Panel therefore finds that the composition of the disputed domain name, together with the content, creates a risk of confusion between the disputed domain name and the Complainant.

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.

In the present case, the Panel notes that the disputed domain name has been registered in bad faith, with knowledge of the Complainant, its trademark and area of activity particularly because the disputed domain name reproduces the Complainant’s trademark with an obvious misspelling, and the registration of the disputed domain name shortly follows the Complainant’s launch of its goods and services under the mark, the acquisition and registration of the corresponding domain names and the international extension of the Complainant’s trademark. [WIPO Overview 3.0](#), section 3.2.1.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

At the time of filing of the Complaint, the disputed domain name resolved to a webpage providing goods and services similar to those provided by the Complainant under the trademark.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt “to attract, for commercial gain, Internet users to [the respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] website or location” is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant’s trademark, with a misspelling, and the website operated under the disputed domain name promotes goods and services similar to those of the Complainant and has no contact information or disclaimer, indeed in this Panel’s view, the Respondent has intended to attract Internet users to access the website corresponding to the disputed domain name who may be misled into believing that such website is held, controlled by, or somehow affiliated with or related to the Complainant, for the Respondent’s commercial gain.

The Respondent has not participated in the present proceeding to put forward any argument in its favor, and, as mentioned in section 6.B above, his communications, together with the other evidence in this case, can be considered as an acknowledgement of the Complainant’s rights in CARDTOPIA trademark. Such facts are further evidence of bad faith registration and use.

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 name <cardxtopia.com> be transferred to the Complainant.

*/Marilena Comanescu /*

**Marilena Comanescu**

Sole Panelist

Date: November 25, 2024