

ADMINISTRATIVE PANEL DECISION

Moelis & Company v. Sarah Kowalczyk, Moelis
Case No. DCC2024-0006

1. The Parties

The Complainant is Moelis & Company, United States of America ("United States"), represented by Soteria, LLC, United States.

The Respondent is Sarah Kowalczyk, Moelis, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <moelis.cc> ("the Domain Name") is registered with Key-Systems GmbH (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 11, 2024. On March 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 15, 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 (On behalf of moelis.cc OWNER) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 15, 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 March 15, 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 March 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2024. The Respondent sent an email communication to the Center on March 15, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on April 16, 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 an investment bank that provides financial advisory services to corporations, governments, and financial sponsors, maintaining its main website at “www.moelis.com”. It is the holder of MOELIS & COMPANY trademarks, including the United States trademark registration No. 4904062, MOELIS & COMPANY (word), filed on March 31, 2015 and registered on February 23, 2016, for services in international classes 35 and 36. It is also the holder of the domain name <moelis.com> registered on April 27, 2000.

The Domain Name was registered on February 27, 2024, and leads to an inactive website.

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.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. On March 15, 2024, the Respondent sent an email to the Center enquiring clarification.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which the 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 the Complainant has rights; and
- (ii) The Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered or 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 that the dominant feature of the Complainant's trademark 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.

The country code Top-Level Domain (“ccTLD”) “.cc” is disregarded, as ccTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons only. [WIPO Overview 3.0](#), section 1.11.1.

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.

No other evidence on any preparation to activate a website under the Domain Name or otherwise use of it has been produced.

The Respondent therefore did not demonstrate any prior to the notice of the dispute use of the Domain Name or a trademark corresponding to the Domain Name in connection with a bona fide offering of goods or services.

Furthermore, the Respondent has not claimed or demonstrated that the Respondent is known as “Moelis”.

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.

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.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the Complainant’s mark, given that MOELIS is a fictitious name, (ii) the failure of the Respondent to submit a formal response or to provide any evidence of actual or contemplated good-faith use, and (iii) the Respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. The Panel further notes the Complainant’s submission that the Complainant is mainly known as “Moelis”, and that the Complainant’s website is located at “www.moelis.com” (Annex 5). Having reviewed the available record, the Panel notes the distinctiveness of

the Complainant's trademark, and the composition of the disputed domain name, which reproduces the main part of the Complainant's mark MOELIS, and the Complainant's domain name in its entirety, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <moelis.cc> be transferred to the Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: April 30, 2024