

ADMINISTRATIVE PANEL DECISION

Marley's Mutts Dog Rescue v. Nick Peplow, Mango Tango Ltd
Case No. D2025-0492

1. The Parties

The Complainant is Marley's Mutts Dog Rescue, United States of America ("United States"), represented by Scanlon Duncan LLP, United States.

The Respondent is Nick Peplow, Mango Tango Ltd, Thailand.

2. The Domain Name and Registrar

The disputed domain name <marleymutts.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 February 7, 2025. On February 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 7, 2025, 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 (UnKnown Registrant) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 10, 2025, 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 February 10, 2025.

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 February 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2025. The Respondent did not submit any formal response. However, informal emails have been received on February 14, 2025, and February 21, 2025, proposing settlement and indicating the disputed domain name will be cancelled. The Complainant has confirmed the Center on February 14, 2025, that it would not be exploring the settlement options. Accordingly, the Center notified the Commencement of Panel Appointment Process on March 7, 2025.

The Center appointed Dawn Osborne as the sole panelist in this matter on March 12, 2025. 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 provides animal rescue services and is the owner of the mark MARLEY'S MUTTS registered as trade mark registration no. 4981285 in the United States for animal rescue services since June 21, 2016 with first use recorded as 2009. The Complainant also owns the domain name <marleymutts.org>.

The disputed domain name registered in 2023 has been used for a site offering competing services using the Complainant's trade mark represented correctly with its apostrophe and without its apostrophe prominently in the masthead of the site to request donations for animal rescue services. The Respondent has given false contact details on its website.

The disputed domain name is currently inactive.

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 the Complainant's prior trade mark omitting only the apostrophe.

The Respondent does not have rights or a legitimate interest in the Domain Name, is not commonly known by it and has not been authorised by the Complainant.

The disputed domain name has been used for a site offering competing services to the Complainant using the Complainant's mark spelled correctly with its apostrophe and used without its apostrophe prominently as a masthead. The contact details provided on the web site were false. Accordingly, the Respondent's use was not a bona fide offering of services or a legitimate noncommercial or fair use. It was registration and use in bad faith diverting and deceiving Internet users for commercial gain with competing services, thereby disrupting the Complainant's business.

B. Respondent

The Respondent did not reply to the Complainant's contentions. The Respondent offered to transfer the disputed domain name for free once the Complainant provides a Namecheap account username.

6. Discussion and Findings

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 MARLEY'S MUTTS mark is recognizable within the disputed domain name omitting only an apostrophe, which is punctuation that cannot be represented in a 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 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.

The Respondent is not authorised by the Complainant or commonly known as the disputed domain name. By offering competing services calling for donations for animal rescue services the web site attached to the disputed domain name was confusing. Additionally, the contact details given on the web site were false making it more likely than not that the site was being used for phishing purposes. Offering competing services in a confusing manner is not a *bona fide* offering of goods or services or legitimate noncommercial fair use.

Panels have held that the use of a domain name for illegal activity here, claimed phishing and impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Respondent has offered competing services using the Complainant's mark spelled correctly with its apostrophe and used without its apostrophe prominently as a masthead, so as to impersonate or pass off as the Complainant. The provision of false contact details on the web site makes it more likely than not that the site was being used for phishing purposes.

The Panel holds that the Respondent has intentionally attempted to attract for commercial gain Internet users by creating a likelihood of confusion with the Complainant's mark, thereby disrupting the Complainant's competing business.

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 held that the use of a domain name for illegal activity here phishing and impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 <marleymutts.com> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: March 26, 2025