

ADMINISTRATIVE PANEL DECISION

Old Kentucky Restaurants Ltd v. Amal Butt, iskills
Case No. D2025-0874

1. The Parties

The Complainant is Old Kentucky Restaurants Ltd, United Kingdom, represented by Brandsmiths SL Limited, United Kingdom.

The Respondent is Amal Butt, iskills, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <harvestermenu.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 March 3, 2025. On March 4, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 4, 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 (NameCheap, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 7, 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 March 7, 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 March 20, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 9, 2025. The Respondent sent email communications to the Center on April 13 and 15, 2025.

The Center appointed Andrew F. Christie, Arif Hyder Ali and David Stone as panelists in this matter on June 10, 2025. The Panel finds that it was properly constituted. Each member of 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 operates over 220 Harvester restaurants across the United Kingdom. It provides family pub restaurants and takeaway services, various menus, and various deals and holiday-focused promotions to incentivize customers to come to its restaurants.

The Complainant has used HARVESTER as a trademark since at least 1983 in the United Kingdom in relation to food and restaurant services. The Complainant owns the following trademark registrations for or including the word HARVESTER: United Kingdom Trademark No. 3985690 (registered March 29, 2024) for the word trademark HARVESTER; United Kingdom Trademark No. 3148136 (registered April 29, 2016) for a composite trademark containing the word HARVESTER and an image of wheat; and United Kingdom Trademark No. 3070784 (registered July 31, 2015) for a composite trademark containing the word HARVESTER and an image of farm animals.

The Complainant is the registrant of the domain name <harvester.co.uk> (registered on March 21, 1997), which it uses as the Uniform Resource Locator ("URL") for its website.

The disputed domain name was registered on July 2, 2024. The Complainant has provided screenshots dated February 28, 2025, showing the disputed domain name resolved to a website headed "Harvester Menu | Affordable & Delicious Meals | Prices in UK 2025". This website features a color of green similar to that used on the Complainant's website, a wheat logo similar to the Complainant's registered composite mark containing an image of wheat, descriptions of food and menus which the Complainant says are identical to those used on the Complainant's website, and images of the Complainant's restaurants that are identical to those used on the Complainant's website. As at the date of this Decision, the disputed domain name does not resolve to an active location.

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.

The Complainant contends that the disputed domain name is identical or, in the alternative, is confusingly similar to a trademark in which it has rights on the following grounds. Incorporating a trademark in its entirety into a domain name can be sufficient to establish identity or confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name on the following grounds, among others. The Respondent has no connection with or affiliation to the Complainant and does not have any express or implied permission to use the Complainant's registered trademarks in the disputed domain name or in any other manner. The Respondent does not hold any trademark registrations for the word mark HARVESTER. The Respondent has failed to create a bona fide offering of goods or services and is not making a legitimate non-commercial or fair use of the disputed domain name. The Complainant's unregistered rights and registered trademarks all predate the registration date of the disputed domain name.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith on the following grounds, among others. The disputed domain name is identical or highly similar to the Complainant's registered trademarks. The content included on the website to which the disputed domain name resolves is directly copied from the Complainant's website. It is evident that the Respondent is using

the Complainant's reputation to intentionally attract for its own commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's registered trademarks as to the source, affiliation or endorsement of the website.

B. Respondent

The Respondent did not file a formal Response, but did send two communications to the Center.

In the first communication, the Respondent: confirmed that he is the registrant of the disputed domain name; said the disputed domain name was purchased for the purpose of "creating a general content website aimed at earning through Google AdSense", which was "purely personal and commercial in a general sense"; and stated that he had no knowledge at the time of registration that the disputed domain name "might be associated with any trademark or company". The Respondent went on to assert that: he did not register the disputed domain name to mislead, confuse, or harm any company or brand; he had never attempted to sell the disputed domain name to a third party; and the disputed domain name was purchased in good faith, with no malicious intent. He concluded by saying he was open to resolving the matter amicably and would be willing to consider settlement discussions.

In his second communication a few days later, the Respondent reiterated his willingness to resolve the matter through settlement and said that he had informed the Complainant he is willing to sell the disputed domain name to it for USD 1,000.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. It is the owner of a trademark registration for the word trademark HARVESTER.

The entirety of the Complainant's word trademark is reproduced within the disputed domain name. Although the addition of other terms (here, "menu") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the trademark for the purposes of the Policy. Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark for the purposes of the Policy.

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

B. Rights or Legitimate Interests

The Panel considers that the composition of the disputed domain name, coupled with the use of the disputed domain name, carries a risk of implied affiliation with the Complainant. The evidence establishes that the Respondent has used the disputed domain name to resolve to a website which, by prominently using the Complainant's HARVESTER word trademark, by adopting a color scheme and logo similar to that used on the Complainant's website, by displaying content similar to that displayed on the Complainant's website, and by reproducing images of the Complainant's restaurants that are used on the Complainant's website, falsely purports to be affiliated with the Complainant. This use of the disputed domain name to imply a commercial affiliation that does not exist cannot confer rights or legitimate interests on the Respondent.

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 Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

In the present case, the Panel notes that: (i) the Respondent registered the disputed domain name many decades after the Complainant first used HARVESTER as a trademark, and a decade after the Complainant first registered its HARVESTER composite trademark; (ii) the disputed domain name incorporates the Complainant's HARVESTER word trademark in its entirety, and merely adds the word "menu"; and (iii) the Respondent has used the disputed domain name to resolve to a website that has an appearance which is similar, and some content that is identical, to that of the Complainants' website. It is clear the Respondent registered the disputed domain name with knowledge of the Complainant and its trademarks. His assertion to the contrary is fanciful.

The evidence shows that the Respondent has used the disputed domain name in an intentional attempt to attract, for commercial gain, Internet users to a website by creating a likelihood of confusion with the Complainant's trademark. By virtue of paragraph 4(b)(iv) of the Policy, this is evidence that the disputed domain name was registered and used in bad faith.

Having reviewed the record, the Panel finds that the Respondent's registration and the Respondent's use of the disputed domain name were in bad faith.

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 <harvestermenu.com> be transferred to the Complainant.

/Andrew F. Christie/

Andrew F. Christie

Presiding Panelist

/Arif Hyder Ali/

Arif Hyder Ali

Panelist

/David Stone/

David Stone

Panelist

Date: June 23, 2025