

ADMINISTRATIVE PANEL DECISION

Sfanti Grup Solutions v. Privacy Service Provided by Withheld for Privacy ehf / Raihan Ali, ViableTech, 3637 Worthington Way robinson, 1702 Fancher Drive

Case No. D2022-0977

1. The Parties

The Complainant is Sfanti Grup Solutions, United States of America, represented by Walters Law Group, United States of America.

The Respondent for the disputed domain name <megaparseonals.com> is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Raihan Ali, ViableTech, Bangladesh and the Respondent for the disputed domain name <megaparseonals.com> is Privacy Service Provided by Withheld for Privacy ehf, Iceland / 3637 Worthington Way robinson, 1702 Fancher Drive, United States of America.

2. The Domain Names and Registrar

The disputed domain names <megaparseonals.com> and <megaparseonals.com> (the “Disputed Domain Names”) are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 21, 2022. On March 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On March 22, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 23, 2022 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 25, 2022.

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 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 19, 2022.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on April 28, 2022. 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 owns and operates the website located at the domain <megapersonals.com>. The Complainant's website is used in connection with the provision of Internet-based social introduction and dating services.

The Complainant has registered rights in the MEGAPERSONALS Marks with the United States Patent and Trademark Office ("USPTO"). The Complainant obtained a registration in International Class 45 (covering "Internet-based social introduction services via a website featuring online personal classified advertisements for the purposes of social introduction and dating") for the MEGAPERSONALS word mark on July 27, 2021. In this U.S. filing, the Complainant stated that the first use in commerce was March 30, 2004.

The Complainant also affirms to have developed extensive common law rights throughout the world: The Complainant registered its previous <megapersonals.com> domain name on June 12, 2003, and <megapersonals.eu> domain name on April 17, 2019. The Complainant has been using the <megapersonals.com> domain name for dating services since at least as early as March 30, 2004. To prove this, annex E of the Complaint contains a screenshot of a Wayback machine search for that date where it can be seen that the Complainant's website was in use on that date for dating services.

The Disputed Domain Names <megaparseonals.com> and <megaparsonalese.com> were registered on October 12, 2021 and October 22, 2021 respectively.

The Disputed Domain Names are used for a website impersonating the Complainant's services.

5. Parties' Contentions

A. Complainant

The Disputed Domain Names are identical or confusingly similar to the trademark.

The Respondent's Disputed Domain Names are identical or confusingly similar to the Complainant's Mark. The Disputed Domain Names are typosquatted versions of the Complainant's Marks and the Complainant's <megapersonals.com> domain name. The disputed domain names misspell "personals" as "parseonals" or "parsonalese".

The Complainant also affirms to have developed extensive common law rights throughout the world: the Complainant registered its previous <megapersonals.com> domain name on June 12, 2003, and <megapersonals.eu> domain name on April 17, 2019. The Complainant has been using the <megapersonals.com> domain name for dating services since at least as early as March 30, 2004.

The Respondent has no rights or legitimate interests in respect of the Disputed Domain Names.

The Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent, whether express or implied, to use the Marks in the Disputed Domain Names or in any

other manner.

The Respondent is not commonly known by the Marks and does not hold any trademarks for the Disputed Domain Names.

No evidence indicates that the Respondent is known by the text of the Disputed Domain Names, and the Panel should presume that the Respondent is not known by the text of the Disputed Domain Names.

The Disputed Domain Names were registered and are being used in bad faith.

According to the Complaint, the use of the Complainant's logo on the websites located at the Disputed Domain Names demonstrates an intention to falsely suggest affiliation with or sponsorship by the Complainant.

The Respondent can claim no legitimate rights to or interests in the Disputed Domain Names because the websites contain a logo that is identical to the Complainant's logo. The Respondent is using an identical or confusingly similar domain name to direct Internet users to a website that is a copycat of the Complainant's website. For this reason, it is very probable that an Internet user would be misled into thinking that the web page is related to or even operated by the Complainant. Previous panels have consistently held that such use is not a *bona fide* offering of goods or services.

Further, the Respondent is using an identical or confusingly similar domain name to direct Internet users to a website offering illegal services. Panels have categorically held that use of a domain name for illegal activity can never confer rights or legitimate interests on respondents, particularly in the case of phishing (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, "[WIPO Overview 3.0](#)", section 2.13.1).

The Disputed Domain Names currently resolve to websites which are designed to look like the Complainant's website to deceive users into providing their log-in credentials to the Respondent. Thus, the Respondent's use of the Disputed Domain Names to offer illegal services is not in connection with a *bona fide* offering of goods or services. From all available evidence, the Disputed Domain Names were registered in October 2021, after the Complainant attained rights in the Mark.

It is well settled that the practice of typo squatting is evidence of bad faith registration. The Respondent had bad faith at the time of registration, because the Disputed Domain Names are composed of the Complainant's Mark with misspellings of the word "personals." This is especially true where the letters are near each other on a normal qwerty-keyboard, making a typo more likely. Here, the letters "a", "e", and "s" are all clustered together, and those three letters are the replaced or additional letters in the Disputed Domain Names.

The Respondent also hid from the public behind a Whois privacy wall. A respondent's use of a privacy service combined with a failure to submit a response is additional evidence of bad faith registration. See [WIPO Overview 3.0](#), section 3.6.

Further, it appears the Respondent is using false Whois contact information. Panels view the provision of false contact information as an indication of bad faith.

The Complainant requests that the Disputed Domain Names be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy states that a respondent is required to submit to a mandatory administrative proceeding in the event that the complainant asserts to the applicable provider, in compliance with the Rules, that:

“(i) your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) you have no rights or legitimate interests in respect of the domain name; and

(iii) your domain name has been registered and is being used in bad faith.”

A. Consolidation

The first issue in this case is whether the Complaint can be consolidated against the various named the Respondents, as requested by the Complainant.

The Disputed Domain Names were registered in the name of different individuals.

Paragraphs 10(e) and 3(c) of the Rules provide:

“10(e) A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules.”

“3(c) The complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder.”

These provisions empower the Panel to consolidate multiple domain name disputes in a single decision or for a complainant to file a complaint relating to multiple domain names subject to the requirement that the disputed domain names are registered by the same domain-name holder.

The Complainant requests consolidation in its Amended Complaint. It argues that all evidence suggests that the registrants of the Disputed Domain Names are the same person.

The Complainant’s request is based on the following: (1) the Disputed Domain Names both contain similar typosquatting structures which misspell “personals” by using an “a” instead of an “e” and adds at least one “e” elsewhere in the word “personals”; (2) the Disputed Domain Names are both designed to look like the Complainant’s website for apparent phishing purposes; (3) the Disputed Domain Names were both registered using the same Registrar and the same privacy protection service; (4) the Disputed Domain Names were registered within 10 days of each other; (5) the Disputed Domain Names were both registered with apparently false contact information; (6) the email addresses associated with the Respondent use a similar combination of random syllables followed by a number, which both utilize the gmail service as the email provider.

It is the view of the Panel that the Complainant has demonstrated by a preponderance of the evidence that both Disputed Domain Names are under common management and control of the same entity.

This evidence, on its own, strongly points to connections between both of the Respondents. As it will be explained in the bad faith section, both Disputed Domain Names have the same content imitating the Complainant website.

In these circumstances, the Panel accepts the Complainant’s statements that the Disputed Domain Names are subject to common control by the same person. The Respondents have provided no evidence in response to that put forward by the Complainant.

The Panel also finds that the consolidation of these disputes would be fair and equitable. On the Complainant's evidence both Disputed Domain Names appear to have been registered with a similar purpose in mind. There is a commonality of facts and issues for each Disputed Domain Name. As such, it is more procedurally efficient to proceed with a single decision.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established its trademark rights in MEGAPERSONAL as evidenced by the trademark registration submitted with the Complaint, as mentioned above.

The Panel is also prepared to find that the Disputed Domain Names <megaparseonals.com> and <megaparsonalese.com> are confusingly similar to the Complainant's Mark MEGAPERSONAL. A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. See [WIPO Overview 3.0](#), section 1.9.

Therefore, the Panel finds that the Complainants have satisfied the first requirement of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the Disputed Domain Names:

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence of the existence of any of those rights or legitimate interests. The Complainant has not authorized, licensed, or permitted the Respondent to register or use the Disputed Domain Names or to use the trademark.

The Complainant has prior rights in the trademarks which precede the Respondent's registration of the Disputed Domain Names.

The Complainant has therefore established a *prima facie* case that the Respondent has no rights and legitimate interests in the Disputed Domain Names and thereby shifted the burden to the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that it has acquired any trademark rights in respect of the Disputed Domain Names or that the Disputed Domain Names are used in connection with a *bona fide* offering of goods or services. In fact, impersonating the Complainant by creating look-alike Disputed Domain Names that imitate the content of the Complainant's website cannot be a *bona fide* offering of goods or services.

Therefore, the Panel finds that the Complainant have satisfied the second requirement of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant must prove both that the Disputed Domain Names were registered in bad faith and that they are being used in bad faith.

The Complainant's allegations with regard to the Respondent's registration and use of the Disputed Domain Names in bad faith have been considered by the Panel. These allegations have not been contested by the Respondent because of its default.

The Complainant's registered rights and demonstrated use of the trademark MEGAPERSONAL predates the Respondent's registration of the Disputed Domain Names.

The Panel visited the Disputed Domain Names <megaparseonals.com> and <megaparsonalese.com> and was able to verify the following: both Disputed Domain Names contain the Complainant's trademarks using the same color that the Complainant's website currently uses for its trademark ("Mega" in orange and "Personals" in blue), and the message "Is this your first time posting? Start Here Already have a login? Login" including a prompt for the user to input its user name and the password. In addition the lower part of the Disputed Domain Names contains similar links and texts as in the original website of the Complainant with references to "Home", "Contact us", and "Policies" and terms menus including the same legend "Copyright ©2021 MegaPersonals.eu".

Here, the Panel determines that the Disputed Domain Names were registered and are being used in bad faith. There is little doubt that the Respondent, when registering the Disputed Domain Names, was aware of the Complainant and its MEGAPERSONAL mark, and intentionally targeted them, when registering the Disputed Domain Names.

The Panel is of the view that registering domain names that deliberately misspell the Complainant's trademark and then including content that seems to imitate the Complainant's website and display is a use in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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 Names <megaparseonals.com> and <megaparsonalese.com> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: May 11, 2022