

## **ADMINISTRATIVE PANEL DECISION**

Consumer Reports, Inc. v. Umar Sharif  
Case No. D2023-3969

### **1. The Parties**

The Complainant is Consumer Reports, Inc., United States of America ("United States"), represented by Cozen O'Connor, United States.

The Respondent is Umar Sharif, Pakistan.

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

The disputed domain name <daconsumerreports.com> (the "Domain Name") is registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 21, 2023. On September 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 22, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 28, 2023 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 2, 2023.

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 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2023. The Respondent did not submit any formal response. The Center received the Respondent's email communications on September 28, 2023 and October 13, 2023. On November 1, 2023, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on November 17, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a non-profit consumer product testing and advocacy organization that publishes Consumer Reports publications. Formed in 1936, the Complainant serves the public through product testing and ratings, research, journalism, public education and advocacy. The Complainant has been using the CONSUMER REPORTS and Consumer Reports-formative trademarks continuously since at least as early as 1942.

The Complainant owns numerous trademark registrations for marks containing CONSUMER REPORTS, such as United States trademark registrations No. 672,849 (registered on January 20, 1959) and United States Trademark Registration No. 1,880,957 (registered on February 28, 1995). The Complainant holds domain name registrations, such as <consumerreports.org>.

According to the Complainant, the Domain Name was registered on July 31, 2020. The Complainant has documented that the Domain Name has resolved to a website that appears to mimic the Complainant's webpage, including the Complainant's trademark. At the time of drafting the Decision, the Domain Name resolved to an error page.

#### **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 Domain Name. Notably, the Complainant argues that the Domain Name includes the entirety of the Complainant's registered trademark, and the addition of the generic term "da" (slang for the term "the") does nothing to reduce the likelihood of consumer confusion.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name, as the Respondent has no *bona fide* offering of goods and services. The Complainant argues that the Respondent is using the Domain Name to pass itself off as the Complainant, and makes a profit through its various affiliate links. While the content on the Respondent's website at a quick glance appear to be product reviews and ratings, the offering cannot be considered *bona fide*, because it is not genuine. Under the guise of product review, the Respondent is actually using the Domain Name to attract users to the Respondent's copycat website where it offers purported consumer product reviews in order to lure users into buying those reviewed products on the various online retail websites. A comparison of the Parties respective websites reveals that the Respondent's website is similar in form and substance to the Complainant's website except that the Respondent is also directing sales. Moreover, the Respondent mimics the Complainant's trademark as the colors are the same, and the Respondent uses "da" in the same manner the Complainant uses "cr" in a stacked configuration. The Respondent's use appears to be a deliberate attempt to pass itself off as the Complainant.

The Complainant argues that the Domain Name is virtually identical to the Complainant's trademark. Moreover, the content on the Respondent's webpage is similar to the content on the Complainant's website. Therefore, the users of the Respondent's site are likely to be confused about the source, sponsorship, affiliation or endorsement of the site. Moreover, the Respondent makes money when a user clicks a review on the Respondent's websites and is sent directly to an affiliate link in order to purchase the product. According to the Complainant, there is no plausible circumstance under which the Respondent could legitimately register or use the Domain Name.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions but stated in the abovementioned informal emails to the Center that he was "open to settlement".

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

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.

Based on the available record, the Complainant has established that it has rights in the trademark CONSUMER REPORTS. The Domain Name reproduces the Complainant's trademark with the addition of "da" in front. The addition does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"), see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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.

While 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 often impossible 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. If the respondent fails to come forward with such evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the 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. The Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights.

Even if the Domain Name is clearly descriptive, the mere registration of such domain name comprised of dictionary words does not by itself automatically confer rights or legitimate interests, as the Domain Name has not been genuinely used, but used to trade off the Complainant's trademark rights. [WIPO Overview 3.0](#), section 2.10.1. The Respondent's use of the Domain Name in passing off as the Complainant does not confer rights or legitimate interests. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, 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 the longevity of the Complainant's trademark and the composition and use of the Domain Name, in particular the mimicking of the Complainant's trademark on the Respondent's webpage. It makes it probable that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Name. It appears that the Respondent has tried to create a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement, for commercial gain. The Respondent's use of the Domain Name in passing off as the Complainant constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <daconsumerreports.com> be transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: December 1, 2023