

ADMINISTRATIVE PANEL DECISION

Sfanti Grup Solutions SRL v. Mohd Khan

Case No. D2023-4010

1. The Parties

The Complainant is Sfanti Grup Solutions SRL, United States of America ("U.S."), represented by Walters Law Group, U.S.

The Respondent is Mohd Khan, India.

2. The Domain Name and Registrar

The disputed domain name <megapersonalsapp.com> is registered with Eranet International Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 26, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 8, 2023, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint.

The Center sent an email communication to the Complainant on October 9, 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 amendment to the Complaint also on October 9, 2023.

The Center verified that the Complaint together with the amendment to the 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 response. Accordingly, the Center notified the Respondent's default on November 2, 2023. The Respondent submitted informal communications on November 3, November 9, two more on November 10, and also on November 13, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on November 9, 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The following facts are undisputed.

The Complainant is a company active in the field of online dating services. The Complainant is the owner of United States trademark registration No. 6432591 MEGAPERSONALS, registered on July 27, 2021, which has been reportedly used since 2004.

The Complainant is the holder of the domain names <megapersonals.com> and <megapersonals.eu>, and has used these domain names in connection with websites that provide internet-based social introduction, and dating services.

The disputed domain name was registered on January 26, 2022. The disputed domain name resolves a website that appear to mimic the Complainant's websites, also by depicting the Complainant's MEGAPERSONALS trademark.

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 the following.

The disputed domain name consists of the Complainant's exact trademark with the only difference being the insertion of the descriptive term "app" after the Complainant's trademark, which does nothing to avoid confusing similarity.

The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is using an identical or confusingly similar domain name to direct Internet users to a website that is essentially a copycat of the Complainant's website. For this reason, it is very probable that an Internet user might be misled into thinking that the web page is related to or even operated by the Complainant.

The Respondent registered and used the disputed domain name in bad faith. The Complainant sent a cease-and-desist letter to the Respondent on August 16, 2023, demanding the Respondent stop using and transfer the disputed domain name. The Respondent did not respond. The Respondent's failure to respond to this correspondence is further evidence of bad faith.

B. Respondent

The Respondent did not reply formally to the Complainant's contentions but submitted several emails from November 3, 2023 until November 13, 2023.

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.

Based on the available record, the Panel finds 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 entirety of the mark is reproduced 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. While the addition of other terms (here "app") 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 mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 in the domain name. 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 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's communications mostly consisted of basic questions to the Center about the proceedings. One communication stated: "I have removed all the content from the domain, I think that should resolve the issue". The Panel notes that this is false, since at the day of the Decision, the disputed domain name still resolves to the website displaying the MEGAPERSONALS trademark, offering services related to the Complainant's activity.

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.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. It is clear that in this case, the Respondent is attempting to impersonate the Complainant, by displaying the MEGAPERSONALS mark, and offering related services.

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, it is clear that the Respondent had the Complainant's MEGAPERSONAL trademark in mind when registering the disputed domain name. Moreover, the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

Panels have held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) 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. As referred to above, it is clear that the Respondent is attempting to impersonate the Complainant.

The circumstances that the Respondent did not reply to the letter sent by the Complainant, nor respond formally to the Complaint, supports a finding of registration and use in bad faith.

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 that the disputed domain name, <megapersonalsapp.com>, be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: November 20, 2023