

ADMINISTRATIVE PANEL DECISION

MasTec North America, Inc. v. Robert Antonio
Case No. D2024-0734

1. The Parties

Complainant is MasTec North America, Inc., United States of America ("United States"), represented by Greenberg Traurig LLP, United States.

Respondent is Robert Antonio, United States.

2. The Domain Name and Registrar

The disputed domain name <mastecship.com> is registered with Spaceship, Inc. ("Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center ("Center") on February 16, 2024. On February 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 20, 2024, 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 (the Complaint identified Redacted for Privacy, Withheld for Privacy ehf) and the contact information in the Complaint. The Center sent an email communication to Complainant on February 21, 2024, providing the registrant and contact information disclosed by the Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 23, 2024. The Panel determines that "Robert Antonia" is the appropriate Respondent.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy ("Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy ("Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy ("Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on February 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 19, 2024. Respondent did not submit any formal response.

On March 8, 2024, a third-party sent an email communication to the Center indicating that it had received one of the copies of the notification of the Complaint and further indicating, among other things that: (1) the street address provided for Respondent was actually the address of its head office in Chicago, Illinois, (2) Respondent's email address used the third party's company name as part of its domain name fraudulently, (3) the name of Respondent did not relate to any of its employees, and (4) it was not responsible for the registration of the disputed domain name. The Center notified the parties of the receipt of this communication on March 11, 2024. Complainant submitted a supplemental filing on March 11, 2024. Accordingly, the Center notified Respondent of the Commencement of Panel Appointment Process on March 20, 2024.

The Center appointed Debra J. Stanek as the sole panelist in this matter on March 26, 2024. 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

Complainant is a construction company operating mainly in the United States, building, installing, maintaining, and upgrading infrastructure, such as electrical utility transmission, pipelines, renewal energy, and communication infrastructure, among others. Complainant has been in business for over 80 years. It owns two United States federal trademark registrations for the mark MASTEC, Reg. No. 2,130,081 for a variety of public service utility industry construction and maintenance services (as well as other related service), registered on January 20, 1998, and Reg. No. 2,544,425, for a stylized version of the mark, registered March 5, 2002, for a similar array of infrastructure construction and related services.

Complainant owns and operates a website at the <mastec.com> domain name. In addition, Complainant's wholly-owned subsidiary, MasTec Network Solutions, offers logistics management and warehousing services, which includes management and tracking of materials transport.

The disputed domain name was registered on January 11, 2024. Both at the time the Complaint was filed and at the time of this decision, it resolves to an inactive website.

According to the Complaint, Respondent used the disputed domain name to create a "[...]@mastecship.com" email address which was used to correspond with a third party in the name of an individual, purporting to be a "logistics coordinator" for Complainant and requesting services from Complainant's vendors. Complainant does not have an employee by the name of this individual in its logistics department. In addition, Respondent provided false contact information in registering the disputed domain name. The address provided is the headquarters of a third party and the email address, which uses the name of the third party in the domain, is not an email address associated with that third party.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

In particular, Complainant has provided copies of communications sent using an email address that includes the disputed domain name. The messages include a signature block identifying Complainant, including its address. Other communications from Complainant's vendor show use of the disputed domain name to request a quote for the vendor's services.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

As noted above, following the filing of the Response, Complainant sent an unsolicited supplemental submission to the Center. Neither the Rules nor the Supplemental Rules provide for the filing of any submission other than a complaint and response. The Panel is of the view that a supplemental submission is appropriate only in exceptional circumstances, and that the party submitting (or seeking to submit) an unsolicited supplemental filing should clearly articulate those circumstances. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.5. Here, Complainant simply forwarded what it characterized as a "second" amended Complaint without identifying what had been amended or articulating any circumstances, much less exceptional ones, which made it appropriate. The Panel did not consider this communication for the purposes of this decision.

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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

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 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.

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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name.

Complainant has provided credible evidence that Respondent has used the disputed domain name to present himself as an employee of Complainant requesting a quote for services from a third party. The email message includes Complainant's name, trademark, and address as part of a signature block on the bottom. The use of a domain name for such activity does not confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Respondent has not rebutted 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.

Based on this record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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.

In the present case, having reviewed the record, the Panel finds that use of the disputed domain name, including to impersonate a representative of Complainant, constitutes registration and use in bad faith under the Policy. [WIPO Overview 3.0](#), section 3.4.

The Panel finds that 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 <mastecship.com> be transferred to Complainant.

/Debra J. Stanek/

Debra J. Stanek

Sole Panelist

Date: April 9, 2024