

## **ADMINISTRATIVE PANEL DECISION**

Harley-Davidson Motor Company, Inc. v. Jeffrey EManley  
Case No. D2024-4883

### **1. The Parties**

The Complainant is Harley-Davidson Motor Company, Inc., United States of America (“United States”), represented by Briffa, United Kingdom.

The Respondent is Jeffrey EManley, United States.

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

The disputed domain name <harleydavidsonbuy.top> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 26, 2024. On November 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 27, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 December 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 24, 2024.

The Center appointed William F. Hamilton as the sole panelist in this matter on January 2, 2025. 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 is a well-known manufacturer, retailer, and distributor of motorcycles and related merchandise. The Complainant has been in business for over 100 years and has extensively marketed its products under the trademark HARLEY-DAVIDSON (the “Mark”). The Complainant’s international sales in 2023 exceeded USD 5 billion.

The Complainant is the owner of a large international portfolio of trademark registrations for the Mark, including the following:

- United Kingdom Registration No. UK00901172329, registered August 7, 2000;
- United Kingdom Registration No. UK00001271222, registered September 30, 1988; and
- United States Registration No. 73122950, registered December 6, 1977.

The Complainant uses the domain name <harley-davidson.com> to sell its products online. This domain name was registered on November 8, 1994.

The disputed domain name was registered on June 7, 2024, and does not resolve to an active website.

#### **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 that the disputed domain name is confusingly similar to the Mark because the disputed domain name is identical to the Mark with the exception that the disputed domain name omits the space between the words of the Mark and that the word “buy” is added to the disputed domain name as a suffix to the Mark. The Complainant contends that the Complainant has never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, has never operated a business under the disputed domain name, has not advertised the disputed domain name, and has never engaged in any bona fide commercial activity in connection with the disputed domain name. The Complainant contends that the Respondent has no rights or legitimate interests in the Mark and has registered and used the disputed domain name in bad faith to take advantage of the Complainant and its Mark.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

## **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.

The Complainant has shown rights in the Mark for the purposes of the Policy by virtue of the numerous registrations of the Mark. The disputed domain name is confusingly similar to the Mark because the disputed domain name nearly replicates the Mark merely omitting the hyphen between the Mark's words and adding the common term "buy." These minor alterations of the Mark do not prevent a finding of confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.8; *H-D U.S.A., LLC v. Privacyguardian.org/ Atomic Art*, WIPO Case No. [D2021-1623](#).

The generic Top-Level Domain ("gTLD") of the disputed domain name, viz. "top," may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

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. See [WIPO Overview 3.0](#), section 2.1.

The Complainant has never authorized or licensed the Respondent to use its Mark. 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 this showing and has not provided evidence of any of the circumstances set forth in paragraph 4(c) of the Policy. The disputed domain name does not resolve to an active website. The passive holding of the disputed domain name does not establish any rights or legitimate interests under the circumstances of this case.

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

## **C. Registered and Used in Bad Faith**

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Respondent registered the disputed domain name many decades after the Complainant's registration of the Mark. Given the indisputable fame of the Mark and the Respondent's use of the confusingly similar disputed domain name, the Panel finds it implausible that the Respondent was unaware of the Complainant's Mark when registering and using the disputed domain name. Panels have consistently found that the registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trademark by an unaffiliated entity creates a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4

That the disputed domain name under these circumstances does not resolve to an active website is irrelevant to the finding of bad faith registration and use under the doctrine of passive holding. The composition of the disputed domain name, incorporating the well-known Mark together with a term "buy", creates a false impression that it would resolve to a website that is sponsored by or affiliated with the Complainant, contrary to the fact. See [WIPO Overview 3.0](#), section 3.3.

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 <harleydavidsonbuy.top> be transferred to the Complainant.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: January 16, 2024