

## ADMINISTRATIVE PANEL DECISION

Max Shipping, Inc. v. Eliot John  
Case No. D2024-5193

### 1. The Parties

Complainant is Max Shipping, Inc., United States of America (“United States”), represented by Fasthoff Law Firm PLLC, United States.

Respondent is Eliot John, United States.

### 2. The Domain Name and Registrar

The disputed domain name <maxshippingcontainers.com> (the “Domain Name”) is registered with Hostinger Operations, UAB (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 17, 2024. On December 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 20, 2024, 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 (Privacy Protect LLC) and contact information in the Complaint. The Center sent an email to Complainant on December 20, 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 the same day.

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 Respondent of the Complaint, and the proceedings commenced on December 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 12, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 13, 2025.

The Center appointed Robert A. Badgley as the sole panelist in this matter on January 16, 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**

Complainant makes and sells shipping containers. According to two trademark applications filed by Complainant on October 16, 2024 with the United States Patent and Trademark Office (“USPTO”), Complainant has used the mark MAX SHIPPING since August 1982 to identify and distinguish its shipping containers in commerce. Annexed to the Complaint are specimens of Complainant’s use of the MAX SHIPPING word mark and a stylized MAX SHIPPING mark.

As far as the record in this case shows, Complainant’s two USPTO applications are pending.

The Domain Name was registered on January 21, 2023. The Domain Name resolves to a commercial website which makes extensive use of the MAX SHIPPING mark. According to Complainant:

“Respondent operates a fraudulent website purporting to sell shipping containers under the MAX SHIPPING Trademark. [...] Customers are induced into paying for containers that are never delivered, as is demonstrated by the Google Reviews attached hereto [...] Respondent’s impersonates the Complainant by copying key identifiers, including (i) the use of Complainant’s [street address] and (ii) the name of the Complainant’s owner [...], appearing as a contact person on the fraudulent website.”

In addition, according to an invoice from Respondent which Complainant annexed to the Complaint, the invoice “uses the name of Complainant’s owner [...] as well as the Complainant’s address in order to deceive Respondent’s victims and bolster the false impression of legitimacy.”

Respondent has not denied any of the foregoing allegations or disputed any of the evidence annexed to the Complaint.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

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

Respondent did not reply to Complainant’s contentions.

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

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been 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 Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Panel concludes that Complainant has common law rights in the unregistered trademark MAX SHIPPING through use demonstrated in the record. Further, given the content of Respondent's website, which purports to sell Complainant's MAX SHIPPING containers, it is clear that Respondent himself viewed MAX SHIPPING as a source identifier for Complainant's products.

The Panel also concludes that the Domain Name is confusingly similar to that mark. The Domain Name entirely incorporates the mark and adds the word "containers." The Panel concludes that the mark remains clearly recognizable within the Domain Name despite this additional word.

Complainant has established Policy paragraph 4(a)(i).

## **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] 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 [Respondent] (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 [Respondent] 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.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent has not come forward in this proceeding to refute any of the plausible and serious allegations made by Complainant, or challenge any of the evidence put forth by Complainant.

It is undisputed that Complainant is not related to Respondent, and has not authorized Respondent to use the mark MAX SHIPPING in a domain name or otherwise. The record here also shows that Respondent has set up a false website impersonating Complainant in order to carry out a fraudulent scheme to bilk unsuspecting customers who thought they were buying MAX SHIPPING products from Complainant. Such conduct obviously does not invest Respondent with rights or legitimate interests vis-à-vis the Domain Name.

Complainant has established Policy paragraph 4(a)(ii).

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

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

- (ii) that 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes, on this undisputed record, that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section. On this record, the Panel concludes that Respondent targeted Complainant's mark in order to set up a website impersonating Complainant for fraudulent commercial gain. This conduct constitutes bad faith registration and use of the Domain Name within the meaning of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

## **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 Domain Name <maxshippingcontainers.com> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: January 18, 2025