

ADMINISTRATIVE PANEL DECISION

Macmillan Publishers International Limited v. Daniel Wilson
Case No. D2025-0547

1. The Parties

The Complainant is Macmillan Publishers International Limited, United Kingdom, represented by NORDEMANN DE, Germany.

The Respondent is Daniel Wilson, United States of America.

2. The Domain Name and Registrar

The disputed domain name <macmillanbookpublishinginc.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 February 11, 2025. On February 12, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 13, 2025, 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 communication to the Complainant on February 14, 2025, 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 on February 14, 2025.

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 February 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 10, 2025.

The Center appointed Wolter Wefers Bettink as the sole panelist in this matter on March 13, 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 global book publishing company with a broad range of books for children and adults in all categories and formats.

The Complainant has rights in a number of trade marks, including but not limited to, the following (hereafter referred as the "Trade Marks"):

- European Union word mark MACMILLAN, registered on March 18, 1998 under no. 00066225;
- United Kingdom word mark MACMILLAN, registered on October 12, 1978 under no. UK00001102865;
- Germany word mark MACMILLAN, registered on April 24, 1980 under no. 1001188;
- Switzerland word mark MACMILLAN, registered on May 21, 1993 under no. 401760; and
- Mexico word mark MACMILLAN, registered on November 30, 2009 under no. 1133104.

The Domain Name was registered on November 12, 2024, and resolves to an English-language website (the "Website") which uses the Trade Marks and offers (ghost) writing, design and layout, editing and proofreading, marketing and book publishing services.

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, on the following grounds.

The Domain Name incorporates the Trade Marks in their entirety with the addition of the descriptive elements "book publishing inc", which suggests that the Website is operated as an online shop for publishing and writing services, creating the false impression that it is associated with, or approved by, the Complainant. The applicable general Top-Level-Domain ("gTLD") is viewed as a standard registration requirement and as such is disregarded under the first element of the confusing similarity test.

The Respondent has no rights for the term "Macmillan" used in the Domain Name, is not affiliated with the Complainant in any way and has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the Trade Marks. The Respondent is not commonly known by the Domain Name, whereas the Complainant has prior rights in the Trade Marks, which precede the Respondent's registration of the Domain Name by many years. To the Complainant's knowledge, the Respondent has never used, or made any preparations to use, the Domain Name in connection with a bona fide offering of goods or services.

The Website shows no clear statement indicating that the Respondent is not the Trade Marks owner, nor its relationship with the Complainant. The Respondent's behavior shows a clear intent to obtain a commercial gain by misleading consumers and tarnishing the Trade Marks. Consumers are misled by the Domain Name and the content of the Website with the alleged possibility of obtaining publishing services of the same quality as those of the Complainant, as the Respondent provides false information to consumers regarding its affiliation with the Complainant. Such fraudulent use of the Domain Name is contrary to a legitimate interest in the use thereof. The behavior of the Respondent constitutes imitation of Trade Marks, brand image and goodwill of the Complainant.

The Domain Name was registered and is being used in bad faith. The Trade Marks have been registered since 1973 and are widely used and well-known since the founding date of the Complainant, which is 1843. The Website is a pure imitation of the Complainant's website and business, as the identified combination of the Trade Marks and the Complainant's trade name and general brand image on the Website cannot be a coincidence. Accordingly, the Respondent must have had knowledge of the Trade Marks at the time of registering the Domain Name, and the Domain Name was registered in bad faith, with the sole purpose of fraudulently getting consumers into thinking that they are visiting an official website of the Complainant in order to obtain unfair advantage from the Trade Marks' reputation and the image of expertise.

Moreover, the actions of the Respondent in attempting to sell publishing services on the Website can result in the public being misled as to the accuracy of the information provided or the origin, sponsorship, or association of the products offered or sold on the Website, are use in bad faith.

Therefore, the Respondent intentionally attempted to create a likelihood of confusion with the Trade Marks and general brand image in order to obtain commercial gain.

B. Respondent

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

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 trade mark and the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown that it has registered rights in the Trade Marks. The Domain Name is confusingly similar to the Trade Marks which it incorporates in its entirety. The addition of the terms "book publishing" and "inc" does not prevent a finding of confusing similarity between the Domain Name and the Trade Marks (see [WIPO Overview 3.0](#), section 1.8; see also, inter alia, *TPI Holdings, Inc. v. Carmen Armengol*, WIPO Case No. [D2009-0361](#), and *F. Hoffmann-La Roche AG v. John Mercier*, WIPO Case No. [D2018-0980](#)). The gTLD ".com" is typically disregarded under the confusing similarity test, since it is a technical registration requirement (see [WIPO Overview 3.0](#), section 1.11.1). Therefore, the Panel finds that the Domain Name is confusingly similar to the Trade Marks in which the Complainant has rights.

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.

Based on the evidence and the undisputed submissions of the Complainant, the Panel concludes that the Respondent has no connection or affiliation with the Complainant, the Respondent has not received the Complainant's consent to use any of the Trade Marks as part of the Domain Name, and the Respondent has not acquired any trade mark rights in the Domain Name. In assessing whether the Respondent has rights or legitimate interests in the Domain Name, it should also be taken into account that (i) since the Domain Name incorporates the Trade Marks with additional terms referring to the Complainant's services, it carries a risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1); and (ii) the Respondent has not provided any evidence, nor is there any indication in the record of this case, that it is commonly known by the Domain Name.

The Website provides (ghost) writing design and layout, editing and proofreading, marketing and book publishing services, some of which are similar to the services provided by the Complainant, while using the Trade Marks. Given the use of the Trade Marks as part of the Domain Name as well as on the Website, there is a serious risk that an Internet user typing in the Domain Name and seeing the Website could be left with the impression that there is some commercial or legal relationship with the Complainant, which is not the case. Therefore, the Respondent's use of the Domain Name prior to the notice of the dispute cannot be considered to be in connection with a bona fide offering of goods or services, in accordance with paragraph 4(c)(i) of the Policy.

Finally, the Respondent is not making a legitimate noncommercial or fair use of the Domain Name as it offers services similar to those offered by the Complainant, while creating an impermissible risk of confusion about a non-existing affiliation with or endorsement of those services by the Complainant.

In view of the above, the Panel concludes that the Complainant has established its case under the second element of the Policy.

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.

Based on the undisputed information and evidence provided by the Complainant, the Panel finds that there is bad faith registration. At the time of registration of the Domain Name, the Respondent was or should have been aware of the Complainant and the Trade Marks, since:

- the Respondent's registration of the Domain Name occurred 46 years after the registration of the earliest registration of a Trade Marks;
- the Respondent has incorporated the Trade Marks in the Domain Name;
- a simple trade mark register search, or even an Internet search, prior to registration of the Domain Name would have informed the Respondent of the existence of the Trade Marks.

Moreover, the Respondent's intent to target the Complainant when registering the Domain Name may be inferred from the content of the Website, which provides services similar to the Complainant's services, while using the Trade Marks.

With regard to bad faith use, the Panel finds that the following circumstances taken together warrant a finding of bad faith use of the Domain Name:

- the probability that the Respondent was aware or should have been aware of the Complainant's rights in the Trade Marks;
- the use of the Trade Marks on the Website, in connection with services similar to those provided by the Complainant;

- the lack of a disclaimer accurately disclosing the (non-existing) Respondent's relationship with the Complainant; and
- the lack of a Response to the Complaint.

Therefore, the Panel concludes on the basis of all of the above circumstances, taken together, that the Domain Name has been registered and is being used in bad faith.

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 <macmillanbookpublishinginc.com> be transferred to the Complainant.

/Wolter Wefers Bettink/

Wolter Wefers Bettink

Sole Panelist

Date: March 24, 2025