

## **ADMINISTRATIVE PANEL DECISION**

Wagamama Limited v. Muhammad Ali  
Case No. D2025-1220

### **1. The Parties**

The Complainant is Wagamama Limited, United Kingdom, represented by Charles Russell LLP, United Kingdom.

The Respondent is Muhammad Ali, Pakistan.

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

The disputed domain name <thewagamamamenu.com> is registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 25, 2025. On March 26, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 26, 2025, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 27, 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 amended Complaint on March 27, 2025.

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 the Respondent of the Complaint, and the proceedings commenced on April 2, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 22, 2025. The Respondent sent an email communication to the Center on March 27, 2025. Accordingly, the Center notified the commencement of the panel appointment process on April 23, 2025.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on April 29, 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.

On May 1, 2025, the Respondent submitted a Response to the Complaint, after the expiry of the deadline to do so.

On May 2, 2025, the Complainant sent an unsolicited supplemental filing to the Center, in response to the arguments put forward by the Respondent.

#### **4. Factual Background**

The Complainant operates a chain of Asian-inspired restaurants that trade under the name “Wagamama”. The first Wagamama restaurant opened in London in 1992, and the Complainant operates a total of 225 restaurants in 20 countries, including 100 establishments in the United Kingdom (“UK”).

The Complainant promotes its activities through its website and social media. It owns in particular the domain name <wagamama.com>, which was registered on July 6, 1995.

The trade mark WAGAMAMA enjoys a certain degree of reputation, at least in the United Kingdom. The Complainant has filed with the Complaint a printout of a Google search for “wagamama” undertaken on November 19, 2024, which shows that all results in the first page refer to its restaurants.

The Complainant holds a wide trade mark portfolio over WAGAMAMA, including a UK trade mark No. UK00900810010 which was registered on July 18, 2000.

The disputed domain name was registered on November 30, 2023. The Complainant has annexed to its Complaint a printout of the website hosted under the disputed domain name, which shows that it is used to give information about “Wagamama menu and prices UK”. The website contains texts which refer to the history and activities of the Complainant. For example, under the title “Wagamama Menu”, users can read the following: “Since 1992, the Japanese restaurant Wagamama has been providing mouthwatering, freshly prepared food. We only use the best ingredients and fragrant seasonings to make our famous Asian-inspired dishes at Wagamama. At Wagamama, we specialize in making tasty dishes packed with flavors and textures.”. The website contains a picture of a restaurant operated by the Complainant, in which the trade mark WAGAMAMA is reproduced several times with its logo.

The Complainant sent a cease-and-desist letter to the Respondent on January 9 and January 22, 2025. As no response was received, the Complainant brought the present Complaint.

#### **5. Parties’ Contentions**

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

###### Summary of arguments of the Complaint

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 Complainant’s distinctive WAGAMAMA Marks because it wholly incorporates the Complainant’s WAGAMAMA mark. It adds that the disputed domain name “is only differentiated by the non-distinctive and descriptive elements “the”, “menu” and “.com” gTLD”) which does not mitigate the confusing similarity”.

On the second element of the Policy, the Complainant indicates that the Respondent is not authorized in any way to use the trade mark WAGAMAMA. Besides, "The Respondent is not making a legitimate noncommercial or fair use of the , instead they are using the domain name to divert consumers from the Complainant and/or take advantage of the Complainant's WAGAMAMA marks". Also, the Complainant stresses that "the website at the disputed domain name gives the impression it is the Complainant's website or an authorised website when this is not the case".

On the third element of the Policy, the Complainant indicates that the disputed domain name was registered and is being used in bad faith. It states that "The Respondent's adoption and use of <thewagamamamenu.com> is clearly in bad faith as not only was there no reason for them to adopt the WAGAMAMA name, given that they operate in a similar area to the Complainant it is not conceivable that the Respondent would not have been aware of the Complainant at the point of registration". Also, "The Website is supplying services under the WAGAMAMA Marks, namely information regarding food and beverages, including ingredients and prices, and other information. The inclusion of the WAGAMAMA Marks throughout the Website creates the impression that the Website is related to the Complainant when this is not the case". The Complainant then develops claims relating to trade mark infringement and passing-off under UK law.

#### Summary of the unsolicited supplemental filing

In its supplemental filing, the Complainant notes in particular that it is clear that the Respondent knew of the existence of the brand WAGAMAMA. It objects to the claim of fair use put forward by the Respondent, as the content of the webpage hosted under the disputed domain name impersonates the Complainant and its brand. This is so as the Respondent uses repeatedly words such as "we" and "our" to refer to the Complainant, and includes a picture of its own restaurant. Finally, the Complainant notes that the Respondent has modified the content of the webpage since the filing of the Complaint, with the addition of copyrighted pictures of its own dishes.

Finally, the Complainant rejects the proposal of the Respondent to add a disclaimer to its website. It states that this would not be "sufficient in the circumstances to remove consumer confusion. Such a disclaimer is unlikely to be given weight by consumers and they will still perceive a connection between the website and the Complainant".

#### **B. Respondent**

The Respondent sent his Response on May 1, 2025, while the deadline for doing so expired on April 22, 2025. He raises three arguments and offers a modification of the website hosted under the disputed domain name:

First, the Respondent claims that he has a legitimate interest in the disputed domain name, which it registered "with the intent to create a food-related blog or review site centered on Wagamama's publicly available menu items. The domain name includes the word "menu," making it clear that the site is meant to provide informational content rather than impersonate the brand."

Second, the Respondent states that he registered the disputed domain name in good faith. He "believed that the domain name was descriptive and intended for fair informational use. There was no intention to mislead users, infringe on any trademark, or compete with the complainant's official website".

Third, the Respondent denies any use of the disputed domain name in bad faith, as it was not used "to host misleading content, engage in phishing, or divert internet traffic from the complainant for commercial gain. The domain has not been offered for sale to the complainant or any third party, nor have I tried to profit from any confusion with the Wagamama brand".

Finally, the Respondent offers to insert a prominent disclaimer in his website, in order to make it clear that he has no relationship with the Complainant.

## **6. Discussion and Findings**

### **6.1 Preliminary procedural issues**

#### **Admissibility of the late Response of the Respondent**

As noted above, the Respondent sent his response with a delay of 8 days.

In accordance with Article 10 of the Rules:

(a) The Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules.

(b) In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

(c) The Panel shall ensure that the administrative proceeding takes place with due expedition. It may, at the request of a Party or on its own motion, extend, in exceptional cases, a period of time fixed by these Rules or by the Panel.

Even if the Respondent failed short of providing any explanation for his late Response, the Panel is prepared to admit it in this case, in view of the following circumstances:

- The delay in filing the response is relatively short, 8 days;
- The Complainant has not strongly objected to the admissibility of the late Response. It has simply noted that it was filed “very late”;
- The Response contains relevant substantive statements which should be addressed in the Decision.

#### **Admissibility of the unsolicited supplemental filing of the Complainant**

The Complainant has made it clear, in its communication to the Center on May 2, 2025, that its supplemental filing was meant to be considered should the Panel exercise its discretion to consider the Respondent’s late response.

Out of fairness to the Complainant, as the Panel has admitted the late Response of the Respondent, it is appropriate to admit also the unsolicited supplemental filing of the Complainant.

### **6.2. Substantive issues**

#### **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. 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 respect of a trade mark 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.

Although the addition of other terms, here “the” and “menu”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

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.

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 claim of fair use is denied: the arguments of the Respondent on the informational purpose of the website hosted under the disputed domain name are not convincing. First, the addition of the word “menu” in the domain name does not prevent a risk of impersonation. This word does not allow, per se, to infer that as a whole the disputed domain named is aimed at hosting a website administered by a third party solely for informational purposes. Second, as highlighted by the Complainant, the Respondent has expressly impersonated the Complainant by 1/ using words such as “we” or “our” to refer to the restaurant services offered under the trade mark WAGAMAMA, 2/ inserting a picture of one of the Complainant’s restaurants, and 3/ inserting images of dishes which appear on the Complainant’s own website.

The use of a domain name for impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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, the Respondent has deliberately impersonated the Complainant by registering a domain name which combines the distinctive element WAGAMAMA with words which clearly target the Complainant’s activity.

The Respondent has then used the disputed domain name to host a website which, as described above, impersonates the Complainant.

By doing so, the Respondent has registered and used the disputed domain name in a manner which creates a likelihood of confusion with the Complainant’s mark (paragraph 4(b)(iv) of the Policy), and which disrupts the business of the Complainant (paragraph 4(b)(iii) of the Policy).

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

The disputed domain name should therefore be transferred to the Complainant, irrespective of the offer of the Respondent to insert a prominent disclaimer. Within its limited powers, a panel has no authority to impose a specific disclaimer on the website hosted under a disputed domain name. Besides, this is an initiative that the Respondent could and should have taken way before, for example when he received the initial cease and desist letter of the Complainant. The parties would then have had the possibility to agree on the nature, format, and content of a disclaimer so as to bring this matter to a friendly settlement.

## **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 <thewagamamenu.com> be transferred to the Complainant.

*/Benjamin Fontaine/*

**Benjamin Fontaine**

Sole Panelist

Date: May 12, 2025