

ADMINISTRATIVE PANEL DECISION

MAV Media, LLC v. Oleksiy Brovarchuk

Case No. D2025-1394

1. The Parties

The Complainant is MAV Media, LLC, United States of America (“United States”), represented by Silverstein Legal, United States.

The Respondent is Oleksiy Brovarchuk, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <dirtyroulette5.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 April 4, 2025. On April 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 7, 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 April 8, 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 April 8, 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 April 9, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 29, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 30, 2025.

The Center appointed Fabrice Bircker as the sole panelist in this matter on May 6, 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

According to uncontested elements in the case file, the Complainant operates a website called "DirtyRoulette", accessible via the <dirtyroulette.com> domain name, and which provides a global random video chat platform for adults.

The Complainant's activities are protected by the following trademark registration:

DIRTYROULETTE, United States Registration No. 5,109,884, with first use on February 16, 2010, filed on June 30, 2016, registered on December 27, 2016, and designating services of class 38.

The disputed domain name, <dirtyroulette5.com>, was registered on March 2, 2025.

At the time of the drafting of the Decision, it is inactive.

However, according to the case file, it initially resolved to a website named "Dirtyroulette", which offered random video chat services in several languages including French, Italian, Russian or English.

Very little is known about the Respondent, except that according to the information disclosed by the Registrar, he is located in Ukraine.

5. Further Procedural Considerations

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. Since the Respondent's mailing address is stated to be in Ukraine which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel notes that the Center sent the Notification of Complaint by email to the Respondent at its email address as registered with the Registrar and to a privacy service and postmaster email addresses as specified by the Rules. There is no evidence that the case notification email to the first two email addresses was not successfully delivered. Furthermore, noting that the use of the disputed domain name has changed, the Respondent appears to be capable of having control over the disputed domain name.

It is moreover noted that, for the reasons which are set out later in this Decision, the Panel has no serious doubt (albeit in the absence of any Response) that the Respondent registered and has used the disputed domain name in bad faith and with the intention of unfairly targeting the Complainant's goodwill in its trademark. The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceedings take place with due expedition the Panel will proceed to a Decision accordingly.

6. 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 its DIRTYROULETTE trademark, because the latter is recognizable within it.

Then, the Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name, in particular because:

- the Respondent registered the disputed domain name long after the registration of the Complainant's trademark and long after the Complainant began using it;
- the Respondent is not a licensee of the Complainant, nor is the Respondent otherwise authorized to use the Complainant's trademark for any purpose;
- the Respondent is not commonly known by the disputed domain name;
- the disputed domain name, because of its composition, creates a risk of implied affiliation with the Complainant; and
- the disputed domain is almost identical to the Complainant's prior rights and the website under said disputed domain name offers services directly competing with the Complainant.

Finally, the Complainant contends that the disputed domain name has been registered and is being used in bad faith, notably because:

- the disputed domain name is confusingly similar to the Complainant's widely known prior trademark;
 - the disputed domain name resolves to a website that provides services in direct competition with those provided by the Complainant;
 - the Respondent concealed his identity behind a Whois privacy service;
 - the Respondent is using the disputed domain name in connection with a revenue-generating scheme;
- and
- the Respondent knowingly registered the disputed domain name containing an exact reproduction of the well-known Complainant's trademark to capitalize on consumer recognition of said trademark.

B. Respondent

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

7. 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 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.

Based on the available record, the Panel finds that the Complainant has shown rights in respect of a trademark or service mark (i.e., the DIRTYROULETTE trademark detailed in section 4 above), for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the DIRTYROULETTE mark is recognizable 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.

Indeed, the disputed domain name reproduces the Complainant's trademark and only differs from said trademark by the addition of the number "5" which does not prevent the Complainant's trademark from being recognizable within the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Regarding the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name, it is well established that gTLDs do not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, 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 the 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.

Indeed, the Complainant has not given its consent to the Respondent to use its DIRTYROULETTE trademark in a domain name registration or in any other manner.

Besides, there is nothing in the record of the case to indicate that the Respondent may be commonly known by the disputed domain name.

In addition, the nature of the disputed domain name, insofar as it consists of the reproduction of the Complainant's trademark with a number at the end, together with the use to which the disputed domain name had been put, tends to suggest sponsorship or endorsement by the latter. In particular, such a disputed domain name can be perceived as a declension of the Complainant's brand. This is a further indication of the Respondent's lack of rights and legitimate interests in the disputed domain name.

At last, the Respondent used the disputed domain name, which is confusingly similar with the Complainant's prior registered trademark, in relation to a website which competed with the Complainant, and which heavily displayed the DIRTYROULETTE trademark (not only as name, but also in its content). It results from this situation, on balance of probabilities, that the Respondent used the disputed domain name to misleadingly divert Internet users and to unduly capitalize on the Complainant's trademark. Such use is not a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain name.

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 Panel finds that:

- the disputed domain name is confusingly similar to the Complainant's trademark, its composition coupled with the use affirms the Respondent's intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant;
- the use of the Complainant's trademark predates the registration of the disputed domain name by 15 years; and
- the website to which the disputed domain name resolved offered services of the same nature as those protected by the Complainant's trademark, bore a name identical to said trademark and repeatedly displayed it in its content.

It results from the above circumstances that it is more than likely that the Respondent registered the disputed domain name being aware of the Complainant's rights.

Besides, although it appears highly plausible that the disputed domain name was used for commercial gain, the record of the case does not enable the Panel to so ascertain.

If so, the above findings and the manner in which the disputed domain name was used would clearly bring this case within paragraph 4(b)(iv) of the Policy. Indeed, the Respondent would intentionally have used the disputed domain name for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website and of the services offered therein.

Assuming the disputed domain name has not (yet) been used for commercial gain, it would nevertheless remain that, as the Respondent used said disputed domain name for a website displaying the Complainant's trademark and offering services of the same nature as those provided by the Complainant, the Parties were in competition. Therefore, the use of the disputed domain name disrupted the business of the Complainant because of the likelihood of confusion created between the website available under the disputed domain name and the Complainant's website. In this scenario, this case would fall within the scope of paragraph 4(b)(iii) of the Policy.

At last, the fact that the disputed domain name is currently inactive does not change this analysis and does not prevent a bad faith finding.

Indeed, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Here, the Panel notably notes i) the composition of the disputed domain name and its previous conditions of use and ii) the fact that said disputed domain name has been deactivated further to the introduction of the Complaint, and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

In view of all the above, 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 <dirtyroulette5.com> be transferred to the Complainant.

/Fabrice Bircker/

Fabrice Bircker

Sole Panelist

Date: May 14, 2025