

ADMINISTRATIVE PANEL DECISION

McEvoy of Marin, LLC v. Ferdian Marketing, gbo
Case No. D2025-1627

1. The Parties

The Complainant is McEvoy of Marin, LLC, United States of America (“United States”), represented by Coblenz, Patch, Duffy & Bass, LLP, United States.

The Respondent is Ferdian Marketing, gbo, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <mcevoyarts.org> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 23, 2025. On April 23, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 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 May 3, 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 May 5, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 25, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 28, 2025.

The Center appointed Christopher J. Pibus as the sole panelist in this matter on June 5, 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 has operated a family-owned farm business in the State of California, United States, since 1990. Its reputation is founded in a range of food products (primarily olive oil and wines), art, beauty products and home wares all of which have been sold in association with its MCEVOY-formative trademarks. Since 1997, the Complainant has owned and used the domain name <mcevoyranch.com> to host its primary website for online sales. In 2023, this website recorded more than 350,000 customer visits. The Complainant also has thousands of followers on Instagram and Facebook and has received coverage in print media such as Forbes Magazine and The New York Times.

The Complainant has used its marks in commerce for more than 23 years and owns the following registrations in its portfolio:

- MCEVOY RANCH, United States trademark Registration No. 4,002,644, dated July 26, 2011, in Classes 29 and 35;
- MCEVOY RANCH, United States trademark Registration No. 4,560,632, dated July 1, 2014, in Class 33.

Beginning in 2017, the Complainant began to use the MCEVOY-formative marks in connection with the McEvoy Foundation for the Arts (the "Complainant's Foundation") and its non-profit exhibition and performance space in San Francisco.

The disputed domain name was originally registered by the Complainant's Foundation on June 21, 2017, and was used to promote arts-related activities over the following six years. In 2023, the associated website attracted approximately 64,000 visitors. The Complainant inadvertently failed to renew the disputed domain name in 2024, and found that the disputed domain name was acquired by the Respondent at auction in July 2024. Thereafter, the Respondent continued to use all the associated content from the Complainant's Foundation website and then subsequently redirected users to active third-party websites, which featured online gambling content. The Respondent currently uses the disputed domain name to provide links to Indonesian websites for online betting through an entity known as "GBO4D".

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, with respect to bad faith, the Complainant highlights the fact that the Respondent misappropriated the website content originally created for the Complainant's Foundation, and subsequently provided links to gambling websites, which is apparently illegal in Indonesia.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, the Complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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 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 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 provided evidence of the existence of relevant trademarks, by providing proof of registrations listed in Section 4 above. Evidence of use and reputation in the MCEVOY-formative marks has also been provided. The Panel concludes that the Complainant has established that it owns sufficient rights, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The dominant element ("mcevoy") of the Complainant's registered marks MCEVOY RANCH has been reproduced within the disputed domain name and the Panel finds the 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.

The disputed domain name consists of the Complainant's MCEVOY element combined with the word "arts", which does nothing to avoid confusing similarity. Although the addition of a word or letters in the disputed domain name may bear on assessment of the second and third elements, the Panel finds the addition of such minor variants does not prevent a finding of confusing similarity between the disputed domain name and the registered 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.

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 names. In particular, the Complainant has presented evidence of its long history of use and reputation and has put forward evidence and submissions that the Respondent has not been commonly known under the Mcevoy name or disputed domain name, nor has it ever been licensed or otherwise authorized to register or use the mark. The Complainant also raises the spectre of unlawful conduct on the part of the Respondent in connection with the

use of the disputed domain name, namely: the initial misappropriation of its original <mcevoyarts.org> website content, and the subsequent redirection to betting sites which is apparently illegal in Indonesia.

Panels have held that the use of a domain name for illegitimate activity here, claimed initial impersonation, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel is prepared to find, based on the evidence set out below, that the Respondent targeted the Complainant and intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark (paragraph 4(b)(iv) of the Policy).

In this matter, there are a number of specific factors which support a finding of bad faith:

- 1) The Respondent purchased a pre-existing domain name and chose to wholly misappropriate and use the pre-existing content from the website created by the Complainant's Foundation for a period of time;
- 2) The Respondent must have been fully aware of the prior owner's rights to the MCEVOY-formative marks as it kept the Complainant's Foundation website for a while, which clearly showed recent activities using the MCEVOY-formative marks, thereby engaging in a form of impersonation or mimicking (see *Duke Ellington School of the Arts Project v. Buddy Corbuzier*, WIPO Case No. [D2024-2037](#)); and
- 3) Eventually the Respondent changed its website content to support gambling activities which are apparently illegal in the Indonesian market it serves, and which further support a finding of bad faith.

Panels have held that the use of a domain name for illegitimate activity (here, claimed initial impersonation/mimicking, and the promotion of illegal gambling) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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.

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 <mcevoyarts.org> be transferred to the Complainant.

/Christopher J. Pibus/

Christopher J. Pibus

Sole Panelist

Date: June 19, 2025