

ADMINISTRATIVE PANEL DECISION

MDU Resources Group v. Pham Dinh Nhut
Case No. D2025-2472

1. The Parties

The Complainant is MDU Resources Group, United States of America ("United States"), represented by PhishFort, Singapore.

The Respondent is Pham Dinh Nhut, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <montanadakota.com> is registered with April Sea Information Technology Corporation (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 20, 2025. On June 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 10, 2025, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On July 11, 2025, the Center informed the parties in Vietnamese and English, that the language of the registration agreement for the disputed domain name is Vietnamese. On the same date, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

The Center verified that 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 July 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 3, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 4, 2025.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on August 8, 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 corporation with a place of business in North Dakota, United States. The Complainant provided little information regarding its activities beyond the fact that it holds three United States registered trademarks for the mark MDU. These marks are as follows:

United States Registered Trademark Number 2338542 for the word mark MDU, registered on April 4, 2000, in Class 39;

United States Registered Trademark Number 2341183 for the word mark MDU, registered on April 11, 2000, in Class 40; and

United States Registered Trademark Number 2399522 for the word mark MDU, registered on October 31, 2000, in Class 37.

The goods and services associated with these trademarks suggested that the Complainant was likely to be in the business of power generation. The Complainant also stated that it used the domain names <mdu.com> and <montana-dakota.com> for its official websites. It did not specify when these were registered, so the Panel performed the necessary lookups, noting that <mdu.com> was registered on March 12, 1997, and that <montana-dakota.com> was registered on February 10, 1999. Having also visited the websites associated with these domain names, the Panel notes that the first is a corporate website for the Complainant which specifies that it “got its start” in 1924 when it brought energy to towns on the Montana-North Dakota border (in the United States), and that from its headquarters in Bismarck, North Dakota, United States, it serves more than 1.2 million customers with electricity and natural gas utility services. The second said website is the online location of the Montana-Dakota Utilities Co., a subsidiary of the Complainant. This is a customer service focused site regarding the provision of energy services to consumers and provides access to online account services together with information about customer payment options.

The Complaint goes on to note that the Montana-Dakota Utilities Co. is under the ownership of the Complainant and that its details are searchable at the website of the Secretary of State of North Dakota, United States (URL provided). The Panel visited said website and noted that the said entity is registered with the said State as a foreign corporation (a Delaware company). It is active, and in good standing. The date of filing of said entity with said Secretary of State is February 7, 1935. The history section discloses that said entity has made annual reports to the said State every year from at least 1996, and that the earliest available entry dates from 1992. Nothing in the history section suggests that the said entity has changed its name. Turning then to the corporations website of the State of Delaware, United States, the Panel notes an entry for the said entity showing its original incorporation date of March 15, 1928.

The disputed domain name was registered on February 17, 2005. Although the Complainant's representative states that the registration date is April 29, 2025, it has apparently misread the relevant information, as this date is the last updated date for the disputed domain name. Little is known of the Respondent, which has not participated in the administrative proceeding. However, as discussed below, the Respondent appears to have been involved in some 25 previous cases under the Policy brought before the Center, in which the Respondent was unsuccessful.

It is notable that the Complaint fails to say what the website associated with the disputed domain name is doing, if anything, nor does the Complainant provide any related screenshot. Based upon the domain name data for the disputed domain name provided by the Complainant, however, the Panel noted that the disputed domain name's nameservers were those of a parking/monetization service, and accordingly, the Panel

visited the website associated with the disputed domain name on August 8, 2025, in order to assess whether it was indeed monetized. The Panel noted that the website associated with the disputed domain name pointed to a parking page with three pay per click (“PPC”) links, two of which were “Make payment” and “Paying online”.

The Complainant stated that the nameservers delegated to the disputed domain name contained active mail exchange (“MX”) and sender policy framework (“SPF”) records, indicating that it had been configured for and was capable of receiving email. The Complainant added that evidence of this would be provided in Annex 1 to the Complaint. It was not. The Panel therefore conducted the relevant DNS lookups to verify the Complainant’s assertions and noted that both MX and TXT (SPF) records were indeed returned for the disputed domain name.

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, the Complainant contends that the disputed domain name contains the terms “Montana Dakota” and is therefore confusingly similar to the trademark and business name in which the Complainant has rights, adding that the disputed domain name is identical to the Complainant’s official domain name.

The Complainant states that the Respondent is not using, nor is there evidence of demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, that the Respondent is not commonly known by the disputed domain name, and that it is not making a legitimate noncommercial use of the disputed domain name.

The Complainant asserts that the disputed domain name was registered primarily for the purpose of selling or otherwise transferring it to the Complainant as the owner of the trademark, adding that the Complainant has a good faith belief that the Respondent intended to transfer the domain name to the Complainant for valuable consideration in excess of the Respondent’s out of pocket costs directly related thereto. The Complainant notes that the disputed domain name has active MX and SPF records which might be used to perform a phishing attack via email against the Complainant. The Complainant submits that the disputed domain name is a “typosquat” without offering any definition for this term. The Panel presumes that the Complainant is seeking to assert that the disputed domain name is a common, obvious, or intentional misspelling of the Complainant’s trademark, sometimes colloquially referred to as “typosquatting”.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue – Language of Proceeding

Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement. The Registrar has confirmed to the Center that the language of the Registration Agreement is Vietnamese.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English largely because it was unable to find reference to the Registration Agreement in Vietnamese on the

Registrar's website, although it could find an English version, and presumed therefore that there was no Vietnamese option for such policies, hence it assumed that the Respondent could understand English.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Here, the Panel notes that the Complaint was notified in both English and Vietnamese, whereby the Respondent received fair notice of the language issue and had an opportunity to address this if it wished, although it has declined to do so. With regard to the Complainant's related submissions, while the Complainant notes that it could not find the Registration Agreement in Vietnamese, the Panel must accept the Registrar's statement as accurate regarding the language of the Registration Agreement. It is not strictly necessary that the Complainant be able to find the Registration Agreement in the language concerned, and whether or not it was able to do so is not strictly relevant to the issue of the language of the proceeding.

The Panel notes that the disputed domain name appears to be a very close variant of the domain name used for the official website of the Complainant's consumer-facing subsidiary company in the United States (indeed, largely identical, save for the removal of the hyphen). Said company is based in an English-speaking country and does its business in English. The term "Montana-Dakota" in the Complainant's affiliate's official domain name references areas where English is spoken, albeit that it is not strictly a geographic term. As far as the Panel can see from a machine translation, the terms "Montana" and "Dakota" do not have any meaning in the Vietnamese language. It therefore seems likely, on the balance of probabilities, that in making reference to English-speaking locations (or to the Complainant's company, which does business in an English-speaking area) in the disputed domain name, the Respondent understands English. The Panel's view here is affirmed by numerous previous decisions under the Policy in which the Respondent was the respondent, and in which the panel considered that the Respondent likely understood English in light of the fact that several of the domain names which it had registered contained English words (see, for example, the discussion on the language of the proceeding in *All States Ag Parts, Inc. v. Vietnam Domain Privacy Services / Pham Dinh Nhut*, WIPO Case No. [D2017-1475](#)).

As the Complainant does not appear to be able to communicate in Vietnamese, and the Respondent apparently understands English, the Panel considers it would be unduly onerous for the Complainant to be required to have the Complaint and related documents translated into Vietnamese. Furthermore, the proceeding would be unduly delayed, and the Complainant would have to incur substantial expenses for translation.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Preliminary Issue – Panel investigations and quality of the Complaint

The Panel notes with some concern that despite the fact that the Complainant appears to be a represented party, the Complaint is somewhat perfunctory, and has a distinct absence of supporting evidence. As indicated in the Factual Background section above, despite the Complainant apparently being a large power generation and consumer facing utility company, the Complaint gave no details whatsoever regarding the Complainant's history or its business activities, leaving the Panel to glean these, as it chose to do, from the Complainant's trademark registrations and official websites which were listed in the Complaint.

There appeared to be a similar lack of care taken with those documentary annexes which did accompany the Complaint. The only items annexed to the Complaint were the registration data for the disputed domain

name, a copy of the Registrar's Abuse Policy, and a copy of the register entry for the three trademarks of the Complainant that were cited therein. This required the Panel to make the following investigations:

1. Visiting the website of the Secretary of State of North Dakota according to the URL provided in the Complaint.
2. Visiting the website of the Secretary of State of Delaware, based upon the findings of 1. above.
3. Looking up the registration data for the Complainant's two official domain names, which were listed in the Complaint.
4. Visiting the official websites of the Complainant and its subsidiaries, which were mentioned in the Complaint.
5. Performing DNS lookups on the disputed domain name's nameservers for MX and TXT (SPF) entries to follow up the assertions made in the Complaint.
6. Visiting the website associated with the disputed domain name itself.

Based upon the information in the Complaint, none of items 1. to 6. above were unknown to the Complainant. Indeed, they were all either referred to, directly or indirectly, in the Complaint and are therefore in the present record. The Panel wishes to record the fact that it is not good practice for a complainant or its representative to rely upon the fact that a panel will conduct investigations such as these to follow up such references in a complaint. Indeed, not all panels under the Policy would necessarily do so, and no panel is obliged to perform any such investigations. Paragraph 15(a) of the Rules makes it clear that the Panel is to decide a complaint on the basis of the statements and documents submitted. Consequently, the best practice for a party's representative is to provide adequate supporting evidence in documentary annexes to the Complainant. In addition to the absence of suitable evidence in this case, there was at least one instance of the Complainant noting that it had provided support in a documentary annex when it had not, namely the necessary DNS lookups. The Panel assumes that as the Complainant's representative purports to be a security-focused brand protection business, that it conducted the relevant searches and had the evidence in hand – or otherwise would not have likely identified the disputed domain name as a vector of concern, but simply neglected to include them in the Complaint. Not all panels under the Policy will have the technical capability to perform a DNS lookup of TXT and MX records to verify the submissions of a party.

Had the Panel not performed the researches which it did in this case, this Complaint might well have been denied for want of evidence. That would have amounted to an injustice against the Complainant in the Panel's view, albeit one for which the responsibility would have fallen upon the Complainant's representative. Nevertheless, having conducted its research, the Panel is confident that it is making the correct decision in finding for the Complainant, all as discussed below. What this means in relatively stark terms for the Complainant is that its representative's preparation of the Complaint came very close to causing its failure. The Panel hopes therefore that by drawing this matter to the Complainant and its representative's attention, steps will be taken by the representative in future complaints under the Policy, should it choose to make any, to address the Panel's various concerns here.

With regard to the investigations that the Panel made in this case, the Panel has had regard to the [WIPO Overview 3.0](#), section 4.8. This notes in part that it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. That is what the Panel has done here, albeit that the volume of the items "1" to "6" above, taken together, are at the maximum extent of what could be reasonably considered to constitute "limited" factual research. In the Panel's view, however, it was entitled to research all of these items only because, in each case, there was at least a basis put forth in the Complaint for the Panel to do so. For example, the URL was provided where the Complainant's subsidiary's company name could be looked up (this in turn led to the Delaware register). The Complainant's official domain names were listed. The

existence of relevant DNS records was asserted. Given that such a basis was provided, the Panel considers that its research has served to verify rather than directly to supplement the Complainant's case.

The Panel considered whether it would be appropriate in this case to put the results of its research to the Parties before proceeding to a decision. In the case of the Complainant, it may be presumed to know all of the items "1" to "6", even if its representative has asserted them but not set the related evidence out for the Panel's consideration. In the case of the Respondent, the Panel is satisfied that each of the items was listed sufficiently in the Complaint whereby the Respondent could have made the same, relatively straightforward, investigations as did the Panel by visiting the various publicly available sources. Furthermore, the configuration of the website and nameservers associated with the disputed domain name are matters directly within the Respondent's knowledge. In these circumstances, mindful of the fact that according to paragraph 10 of the Rules it must ensure that the administrative proceeding takes place with due expedition and having satisfied itself that the Parties have been treated with equality on this topic, the Panel decided it was unnecessary to put its findings from the investigations listed as "1" to "6" above to the Parties.

6.3 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 trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The registered trademark rights that the Complainant has put forward all relate to the word mark MDU. This mark may be an initialism which represents in part the "montana-dakota" element of the Complainant's subsidiary's official domain name <montana-dakota.com>, but the Panel is not told this in the Complaint. Nor are any submissions made by the Complainant's representative which explain why and how the Panel might find that the initialism is capable of being confusingly similar or identical to the disputed domain name. The Complainant's representative merely asserts that it is, and the Panel cannot accept that submission on its own without additional argument.

The Complainant's representative does however make reference to the similarity between the said official domain name <montana-dakota.com> and the disputed domain name. This has led the Panel to consider whether the Complainant might be able to establish that it has unregistered rights in that name via its subsidiary's trading history, the subsidiary being an affiliated entity to the Complainant. [WIPO Overview 3.0](#), section 1.4.1. The Panel notes that the said official domain name was registered in 1999 and is used for the consumer-facing website of a substantial energy generating utility. The Panel has no reason to believe that the Complainant's affiliate has not traded online as such, using this name, since registering the related domain name in 1999. This conclusion is further affirmed by the fact that the Complainant's affiliate has existed as a registered company by the same name for an extremely long period of time. While the Panel does not know that the affiliate has been known as, and has traded as, "Montana Dakota" since it was first registered in Delaware, United States on March 15, 1928, or even since it was first filed in North Dakota, United States on February 7, 1935, the entry in the latter register shows no name change across a period of over 30 years. Given its customer-facing nature, the substantial business of power generation and consumer supply in which it appears to engage, and its very longstanding trading history (both online and before the commercial Internet existed) the Panel is prepared to find that the Complainant's affiliate has established unregistered trademark rights in the term MONTANA DAKOTA upon which the Complainant is entitled to rely for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The absence of a hyphen in the disputed domain name may be disregarded for the purposes of the comparison exercise as being of no distinguishing value. The domain name generic Top-Level Domain may likewise be disregarded as is customary in cases under the Policy. [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.

The Panel notes in particular the use of the disputed domain name for PPC links relating to payment services. This bears some relation to the fact that, as a utility company, the Complainant or its affiliate is likely to receive numerous payments on an ongoing basis from its customers, as discussed on its said official website. Given this, the use of the disputed domain name to host a parking page comprising PPC links does not represent a bona fide offering of goods or service within the meaning of the Policy, given that such links compete with or capitalize on the reputation and goodwill of the Complainant’s mark or otherwise mislead Internet users. The Panel notes furthermore that the said PPC links are not genuinely related to the dictionary meaning of the phrase comprising the disputed domain name. [WIPO Overview 3.0](#), section 2.9.

The Respondent has not engaged with the administrative proceeding and has therefore provided no submissions or evidence which might have suggested that it had rights or legitimate interests in the disputed domain name. In the absence of such, the Panel has not been able to identify any potential rights and legitimate interests that the Respondent might have claimed had it chosen to participate in the proceeding.

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.

At minimum, the Complainant must show that the Respondent registered the disputed domain name with the Complainant in mind, and with intent to target it unfairly. In the present case, that is somewhat complicated by the fact that the disputed domain name was registered some two decades ago, something that the Complainant’s representative appears to have overlooked, and did not therefore address in the Complaint. Panels have widely recognized that the mere delay between the registration of a domain name and the filing of a complaint neither bars a complainant from filing such case, nor from potentially prevailing on the merits. [WIPO Overview 3.0](#), section 4.17. Nevertheless, it is often noted that in the case of a long delay, it may be harder for a complainant to establish registration in bad faith purely due to the need to show the position as at the date when the disputed domain name was registered. In the present case, however, the Complainant does not have that difficulty in the Panel’s opinion. The evidence shows that the Complainant’s affiliate is a

substantial utility with almost a century's worth of trading, which goes by a name almost identical to the disputed domain name, and which it had been using in an almost identical domain name for its official website for around six years before the disputed domain name was registered. In these circumstances, and in the absence of any countervailing evidence, the Panel is content to make what it considers to be a reasonable inference that the disputed domain name was registered in the knowledge of the Complainant's affiliate's MONTANA DAKOTA unregistered trademark.

In terms of the use of the disputed domain name, the Panel notes that the Respondent is using the disputed domain name, a close typographical variant of the Complainant's affiliate's official domain name, for PPC advertising purposes which appear to take advantage of the Complainant's affiliate's goodwill. As outlined above, consumers of the Complainant's affiliate's utility services could potentially stumble upon the disputed domain name when seeking to make a payment to the utility and would thereby benefit the Respondent unfairly by clicking on the corresponding PPC links. This cannot be regarded as a good faith use of the disputed domain name.

The Panel also notes the Complainant's submissions regarding the risk of a phishing attack being launched from the disputed domain name. It is clear that the disputed domain name is almost alphanumerically identical to the Complainant's affiliate's trading name and official domain name, whereby Internet users who are said affiliate's customers would be likely to be confused were they to receive email bearing to emanate from the disputed domain name and inviting replies thereto. It is also clear that the disputed domain name has been configured for email use. While there is no evidence of the disputed domain name having been employed in a phishing attack, and it must be noted that the disputed domain name has been in existence for two decades, the continued registration of the disputed domain name under the Respondent's control constitutes an ongoing threat hanging over the head of the Complainant which does not correspond with the notion of any good faith on the Respondent's part.

The Respondent has not engaged with the administrative proceeding and has brought forward no submissions or evidence which might have suggested that it registered the disputed domain name in good faith. In the absence of such, the Panel cannot identify any matters which the Respondent might have brought forth in support of its case on this element of the Policy. Notably, the Panel discounts the possibility that the disputed domain name was registered by coincidence, for example, to make some kind of geographic reference unrelated to the MONTANA DAKOTA trademark. As far as the Panel is aware, the disputed domain name references the very longstanding trading name of the Complainant's customer-facing affiliate and could not be said on balance of probabilities to be an unrelated geographic reference, largely due to the absence of the modern-day "North" or "South" qualifier to "Dakota", and the juxtaposition with "Montana", meaning that this is not a reference to an official territory. The Panel understands that, historically, the term "Dakota" might have been used without the said qualifier, for example to reference certain traditional Dakota homelands, but such a reference requires an appropriate context that is not present here, nor does the Respondent assert any such context. Finally, the Respondent's history with the Policy suggests that it is a prolific registrant of abusive domain names, and the Panel notes that, while each case must be taken on its merits, it is nevertheless of some significance that the Respondent has been found to have registered and used domain names in bad faith in some 25 previous cases under the Policy brought before the Center.

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 <montanadakota.com> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: August 22, 2025