

ADMINISTRATIVE PANEL DECISION

Marshmallow II (St. Lucia) Limited v. MEDIA INSIGHT, MEDIA INSIGHT
Case No. D2025-2473

1. The Parties

The Complainant is Marshmallow II (St. Lucia) Limited, Saint Lucia, represented by Riebling IP, PLLC, United States of America (“United States”).

The Respondent is MEDIA INSIGHT, MEDIA INSIGHT, United States.

2. The Domain Name and Registrar

The disputed domain name <hedonismnegril.com> is registered with Network Solutions, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 23, 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 June 24, 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. The Center sent an email communication to the Complainant on June 25, 2025, providing the registrant and contact information disclosed by the Registrar.

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 June 25, 2025. In accordance with the Rules, paragraph 5, the due date for Response was July 15, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 16, 2025.

The Center appointed Adam Taylor as the sole panelist in this matter on July 18, 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

Since 1981, the Complainant and its predecessors have operated a “clothing optional” resort in Jamaica under the marks HEDONISM and HEDONISM II.

The resort has featured in many newspapers and magazines worldwide.

The Complainant owns a number of registered trade marks for HEDONISM including United States trade mark No. 2271059, registered on August 17, 1999, in class 42.

The Complainant operates a website at “www.hedonism.com”.

The disputed domain name was registered on February 12, 2001.

As of March 31, 2025, the disputed domain name resolved to a website that was branded “HEDONISM II/ADULTS ONLY-ALL INCLUSIVE-NEGRIL”, with the words “VACATION STORE MIAMI” in smaller/fainter font above. The resort name, location and two phone numbers appeared to the right of the header. The homepage featured a prominent “BOOK NOW!” button as well as extensive information about, and photographs of, the Complainant’s resort. Amongst other things, the homepage referred to “our resort”. The footer stated: “Hedonism II... Call us Toll Free...”, with the words “Vacation Store Miami” plus an “R” symbol included in a small-font horizontal menu at the bottom.

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.

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. 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, “negril”) may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 recognised 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.

As to paragraph 4(c)(i) of the Policy, it appears that the Respondent used the disputed domain name to take bookings for the Complainant’s own resort. The consensus view of UDRP panels is that to establish a bona fide offering in such circumstances, a respondent must comply with certain conditions (the “Oki Data requirements”). Cases applying the Oki Data requirements usually involve a domain name comprising a trade mark plus a descriptive term (e.g., “parts”, “repairs”, or “location”), [WIPO Overview 3.0](#), section 2.8.

The Oki Data requirements include the accurate and prominent disclosure of the respondent’s relationship with the trade mark holder. Recently, some panels have adopted a “holistic” approach whereby, even if there is no prominent disclaimer, other factors may confirm or deny affiliation with the complainant, such as domain name composition, website content or other circumstances relating to the use of the domain name and/or the respondent’s business. See, e.g., *KT & G Corporation, and Philip Morris Products S.A. v. Ieva Kalnina*, WIPO Case No. [D2024-0555](#).

In this case, taking all the circumstances into account, the Panel does not consider that the Respondent has taken sufficient steps to deny affiliation with the Complainant; on the contrary, the Respondent has sought to imply a connection with the Complainant.

First, the disputed domain name consists only of the Complainant’s mark plus “negril”, the place in Jamaica where the Complainant’s resort is located, with nothing to indicate the possibility of a reseller-type relationship.

Second, the Panel considers that the Respondent’s website set out to create the impression that it was operated by the Complainant, including by prominent use of “HEDONISM II” branding, as well as text such as “our resort” and “Call Us”.

Users would have had to work hard to discern that the website was in fact apparently operated by an independent Florida travel business called “Vacation Store Miami”. In the Panel’s view, the subtle appearance of that name above the main “HEDONISM II” branding, and in the footer, was far from sufficient to offset the overwhelming impression that the website belonged to the Complainant. Furthermore, according to screenshots supplied by the Complainant, the phone numbers used by the Respondent in conjunction with the name/location of the Complainant’s resort correspond to the main contact numbers used on Vacation Store Miami’s own website, again indicating an intention by the Respondent to hide behind the Complainant’s brand.

Accordingly, the Panel does not consider that the Respondent is using the disputed domain name in a bona fide manner.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

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, for reasons discussed in detail under the second element above, the Panel considers that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trade mark in accordance with paragraph 4(b)(iv) of 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 <hedonismnegril.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: August 1, 2025