

ADMINISTRATIVE PANEL DECISION

MMJ Apparel IP LLC v. Krix Luther
Case No. D2025-3031

1. The Parties

1.1 The Complainant is MMJ Apparel IP LLC, United States of America, represented by Herrick, Feinstein LLP, United States of America (“United States”).

1.2 The Respondent is Krix Luther, Thailand.

2. The Domain Name and Registrar

2.1 The disputed domain name <milly.bot> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 30, 2025. At that time, publicly available Whois details did not identify the underlying registrant of the Domain Name.

3.2 On July 30, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 30, 2025, the Registrar transmitted by email to the Center its verification response disclosing underlying registrant and contact information for the Domain Name. The Center sent an email communication to the Complainant on July 31, 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 August 2, 2025.

3.3 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”).

3.4 The Respondent sent an email communication to the Center on August 3, 2025, which took the form of what appeared to be a substantive response to the Complaint but which failed to incorporate the statement required by paragraph 5 (c)(viii) of the Rules.

3.5 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 4, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2025.

3.6 The Respondent filed its purported response on August 4, 2025. The content of that Response was the same as the Respondent's email of August 3, 2025. It similarly did not incorporate the signed statement required by paragraph 5 (c)(viii) of the Rules.

3.7 On August 4, 2025, the Center requested confirmation that the Respondent's communication of that date should be treated as the Respondent's complete response. The Respondent provided that confirmation. The Center acknowledged receipt of this communication and started the appointment process.

3.8 The Center appointed Matthew S. Harris as the sole panelist in this matter on August 14, 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.

3.9 On August 20, 2025 the Panel issued a procedural order ("Procedural Order No.1") (a) requiring the Respondent to file a copy of its Response together with the signed statement required by paragraph 5 (c)(viii) of the Rules by no later than August 25, 2025, (b) requiring the Respondent to submit unredacted versions of material accompanying that Response by no later than August 25, 2025, (c) requiring the Respondent to provide evidence of his identity by no later than August 25, 2025, and (d) allowing both parties to file further submissions by no later than August 27, 2025 and requiring the parties to include a statement in those submissions using the same language as that required (in the case of the Complainant) by the second paragraph of paragraphs 4 (c)(viii) and (in the case of the Respondent) by paragraph 5 (c)(viii) of the Rules.

3.10 The Complainant filed a further submission in response to Procedural Order No. 1 at 23:51 CEST on August 26, 2025. The Respondent filed a further submission in response to Procedural Order No. 1 at 09:13 CEST on August 28, 2025. The form and content of each of these further submissions is dealt with in greater detail later on in this decision.

3.11 At 17:48 CEST on 28 August 2025, the Complainant filed a further submission in these proceedings. This was not called for by the Panel and was sent after a draft of this decision had already been prepared. Accordingly, this additional submission has not influenced the Panel's reasoning in this decision and the Panel makes no further reference to the same.¹

4. Factual Background

4.1 The Complainant is a company incorporated in New York, United States, which has been engaged in the sale of women's clothing since 2001 under the "MILLY" brand. Its activities have been primarily in, but not exclusively in, the United States, where it has particularly benefited from media coverage in respect of its products. This includes publicity as a result of its clothing being worn by a number of famous persons, including by Michelle Obama in her official portrait displayed at the Smithsonian National Portrait Gallery. Its products have been promoted and sold by the Complainant on a website operating from the domain name <milly.com> since approximately 2014.²

4.2 The Complainant is the owner of various trade marks that comprise or contain the term "MILLY".

¹ On August 29, 2025, after this decision had been provided to the Center, the Respondent also sought to file further submissions and evidence in these proceedings. The Panel has also not taken these further submissions into account.

² See <https://web.archive.org/web/20140826084114/https://www.milly.com/>

These include:

- (i) United States trade mark registration 3136107 with a filing date of June 29, 2000 and a registration date of August 29, 2006 for MILLY as a standard character mark in class 25;
- (ii) International trade mark registration 921914 registered on April 3, 2007 based upon the United States registered trade mark identified above and which has proceeded to registration in Bahrain, Switzerland, China, Russia and Singapore; and.
- (iii) European Union trade mark registration 004368502 with a filing date of April 1, 2005 and a registration date of August 22, 2008 for MILLY in stylised text similar to a signature in classes 18 and 25.

4.3 The Domain Name was registered on March 3, 2025. It has been used to at least some degree since registration to display pay per click parking pages. As at April 18, 2025 that page displayed the links “Formal Dressed & Evening Gowns”, “Free Tax Cut Online” and “Gowns and Prom Dresses”. The first of these links when clicked on took the Internet user to sponsored links related to women’s clothing including those for “JJ’s House” and “Bloomingdales”. As at July 17, 2025 that page displayed the links “Free Machine Embroidery Designs .pes Format” and “Free Embroidery Designs”.

4.4 No website is operating from the Domain Name as at the date of this decision.

5. Parties’ Contentions

A. Complainant

5.1 The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

5.2 Notably, the Complainant contends that the Domain Name takes the form of its trade mark combined with the “non-distinctive” “bot” generic top level domain (“gTLD”). It claims that the parking of the Domain Name provides no right or legitimate interest in the Domain Name. It further claims that although this is a parking page of the Registrar, it was actively created by the domain owner using Sedo Domain Parking. Accordingly, it is claimed that this parking page with pay per clicks was knowingly created by the Respondent. Further, the Complainant contends that the Respondent knew, or should have known, of the Complainant’s trade marks at the time the Domain Name was registered and quotes a passage from the decision in *HDFC Bank Limited v. Punit Jain*, WIPO Case No. D2024-0177 where the panel found that “it ought to be presumed that the Respondent had constructive notice of the Complainant’s trademark”. In the circumstances, the Complainant contends that the Domain Name was registered and is being held to capitalise on the reputation and goodwill of the Complainant’s trade marks, and that the way in which it has been used evidences a lack of rights or legitimate interests, and constitutes evidence of bad faith registration and use falling within the scope of paragraph 4(b)(iv) of the Policy.

B. Respondent

5.3 The Respondent did not file a Response that complied with paragraph 5 (c)(viii) of the Rules, either at the time that the Response was due, or within the time period provided by Procedural Order No. 1. The document that was filed asserted that (a) the Domain Name was registered “for the purpose of developing a Discord AI Ticket Bot named ‘Milly’”; and (b) the term “Milly” was personally significant to the Respondent being his “daughter’s name chosen in honor of [his] grandmother”. The Respondent filed material with that non-compliant Response which was said to support those contentions, but which was at least in part redacted.

C. Parties' Further Submission

5.4 There was nothing in the material before the Panel that suggested that the contentions in the Respondent's non-compliant Response, were ones that could have been anticipated by the Complainant. Accordingly, Procedural Order No.1 gave the Complainant an opportunity to respond to the same.

5.5 In its further submission filed pursuant to Procedural Order No. 1 the Complainant contended that (a) the "evidence" provided in the purported Response that was claimed to record an online conversation with the Respondent's developer, was inconsistent with the Respondent's claim that the Domain Name had been registered because Milly was his daughter's name, (b) this "evidence" suggested that the Respondent had a different name than the name used to register the Domain Name, (c) that this material did not involve "demonstrable preparations" to use the domain name in connection with a bona fide offering of goods and services where close to 4 months had passed since the registration of the Domain Name, and (d) that the case law cited by the Respondent in the purported Response (i.e. *J.P. Morgan Chase & Co. v. Kaufman*, WIPO Case No. D2000-0995) did not exist.

5.6 Notwithstanding that Procedural Order No. 1 expressly required the Respondent to submit by no later than August 25, 2025, a fresh copy of the purported Response that contained the signed statement required by paragraph 5 (c)(viii) of the Rules, the Respondent did not do so. The Respondent also did not within the time period set out in the Procedural Order No. 1, provide an unredacted copy of the purported evidence referred to in that Response.

5.7 The Respondent did file a further submission in these proceedings. That further submission was filed out of time in that it was sent to the Center a day after the date provided for any such submission in Procedural Order No. 1, but the Panel has decided not to disregard that submission on that basis. However, despite the express direction in Procedural Order No.1 that this further submission contain a statement in the same form as required by paragraph 5 (c)(viii) of the Rules, the Respondent did not include any such text.

5.8 So far as the substantive content of that further submission is concerned, in addition to repeating contentions in the purported Response, the Respondent claimed that he had received no monies from the pay per click parking page operating from the Domain Name and provided what he claimed to be correspondence with the Registrar that was said to support that contention.

5.9 Procedural Order No.1 also had pointed out the on its face inconsistency between the Respondent's evidence as to an online conversation with his developer, and the Respondent's claim that the Domain Name had been registered because that was his daughter's name. However, the Respondent's further submission did not address this issue. Instead, it sought to argue that it was not significant that there was no website operating from the Domain Name because:

"This bot is not a simple chatbot. It is designed to integrate with multiple game servers to pull player data (e.g., player name, Steam ID, EOS ID, inventory logs, playtime stats, map location, player-placed entities) and to allow authorised staff to issue administrative commands from Discord ticket threads directly into each game server. Each supported game requires a custom mod capable of secure communication with the bot; these games run on different engines and demand varying levels of expertise. Coordinating multiple developers and building secure, auditable integrations across titles is a complex and challenging undertaking. A five-month window before a public-facing site appears is entirely consistent with that scope."

5.10 Further, although the content of this document was clearly in part responsive to claims advanced in the Complainant's further submission, it did not address the Complainant's contention that the purported Response made reference to a non-existent WIPO decision.

6. Discussion and Findings

A. Identical or Confusingly Similar

6.1 It is generally 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.

6.2 The Complainant has shown that it has rights in registered trade marks for MILLY. [WIPO Overview 3.0](#), section 1.2.1.

6.3 The Domain Name takes the form of the term MILLY combined with the ".bot" gTLD". Accordingly, the entirety of the Complainant's mark is reproduced within the Domain Name and as a consequence that mark is clearly recognisable in the Domain Name. It follows that the Domain Name is at least confusingly similar to the Complainant's marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

6.4 The Panel, therefore, finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

6.5 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.

6.6 While the overall burden of proof in UDRP proceedings is on the complainant, many panels have taken the position that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, the approach of many panels under the Policy where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, is to state that 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. If the respondent fails to come forward with such relevant evidence, the complainant is then deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

6.7 That said, frequently it is possible for a panel to come to a conclusion on the balance of probabilities as to whether a respondent has a relevant right and legitimate interest, particularly bearing in mind the conclusions reached by that panel as to a respondent's motives when considering whether a domain name has been registered in bad faith.

6.8 In the present case the Respondent has sought to advance a positive case as to why he registered the Domain Name, which might provide him with a right or legitimate interest under the Policy. The difficulty is that this case is to be found in a purported Response that does not comply with paragraph 5 (c)(viii) of the Rules and in a further document that does not contain a similar statement.

6.9 The issue of non compliance with paragraph 5 (c)(viii) of the Rules is something that was addressed by this Panel in *Audiotech Systems Ltd. v. Videotech Systems Ltd.* WIPO Case No. [D2008-0431](#). At that time what is now paragraph 5(c)(viii) of the Rules was to be found in paragraph 5(b)(viii) of the Rules. In that case the Panel stated in respect of a purported response that took the form of a letter as follows:

"the statements made by the Respondent in its letter are unsupported by the statement of truth required by paragraph 5(b)(viii). This is not a trivial matter. The Policy provides a relatively informal process of dispute resolution. It has no formal rules of evidence and panels frequently are prepared to treat as evidence assertions of fact to be found in the parties' submissions insofar as these facts can reasonably be expected to be within the knowledge of that party. ... In the circumstances, it is imperative that submissions contain at the very least the limited safeguard provided by paragraph 5(b)(viii).

... It is therefore not surprising that in the past some panels have disregarded in their entirety responses that have not been in compliance with the Rules.”

6.10 The Respondent was required and given an opportunity to correct that omission in the case of the purported Response by Procedural Order No.1. The recitals to that order also expressly brought to the Respondent’s attention that a failure to include that language might lead the Panel to refuse to consider the contents of that submission. Notwithstanding this, the Respondent did not correct this omission prior to the filing of this decision with the Center.

6.11 Further, the further submission filed with the Center on August 28, 2025 also ignored Procedural Order No. 1’s requirements so far as any additional submission is concerned. Further, the Respondent failed prior to the filing of this decision with the Center (a) to provide the further evidence of his identity sought and (b) to provide some of the evidence relied upon by the Respondent in unredacted form.

6.12 These procedural failures mean that the Panel is not prepared to attach any evidential weight to the assertions of the Respondent in the submissions or to take into account any of the “evidence” offered by the Respondent in this respect.

6.13 Further, the Panel is also concerned by the fact that the purported Response made reference to a case that did not exist. The Complainant contends that the case number of the case relied upon has a different name. However, it is clear to the Panel from a search of WIPO UDRP decisions on the WIPO website, that there is also no decision with the name given. Accordingly, this cannot be explained by an inadvertent typographical error. The case reference has simply been made up. This is strongly suggestive that the Respondent’s submissions and possibly the “evidence” said to support those submissions has been generated by AI. This is another reason why both the Respondent’s submissions and associated “evidence” will be disregarded by the Panel.

6.14 Further, even if the Respondent’s purported evidence were taken into account, it is problematic. In particular, material provided which is said to take the form of a copy of an online conversation with the Respondent’s developer, is inconsistent with the claim that the Domain Name was chosen because it was the name of the Respondent’s daughter. According to that material the Panel developer stated, “I could not get a cool Jarvis domain but I got MILLY.Bot or FRIDAY.Bot (Friday was Javi’s successor)”. The developer also purported to offer suggestions as to what the letters MILLY or FRIDAY might stand for, which were said to have been sourced from Chat GPT, and the Respondent responded by stating that he thought that “the acronyms are great”. In other words, if this material is taken at face value, it suggests that the Domain Name was one of two domain names independently identified by the developer. But if that is so, it is to say the least implausible that the Domain Name so identified by this developer also co-incidentally happened to comprise the Respondent’s daughter’s name, and even more implausible that the Respondent failed to say anything about this. Further, this inconsistency was expressly pointed out in Procedural Order No. 1 and the parties were given an opportunity to address this in their supplemental submissions. The Complainant did so, and asserted that this inconsistency supported its case. The Respondent in his further submission did not address this point at all.

6.15 Further and in any event, even had the Panel been prepared to take into account the Respondent’s alleged conversation with his developer (which for the reasons set out above, it is not), that material is inadequate, to demonstrate a right or legitimate interest. It gets nowhere near “demonstrable preparations to use ... [the Domain Name] ... in connection with a bona fide offering of goods or services”, such that paragraph 5(c)(i) of the Policy applies. This is particularly so given that if the Respondent was really engaged in developing a project with the complexity claimed in his supplemental submission, extensive evidence in this respect could have been provided with relative ease.

6.16 Finally, for the reasons set out in the section of this decision dealing with bad faith, the Complainant has satisfied the Panel, albeit only just, that the Domain Name was registered and is being used to take advantage of the Complainant’s trade mark rights.

6.17 In the circumstances, the Panel finds on the balance of probabilities that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

6.18 The Complainant contends that the Domain Name was registered and has been held with knowledge of the Complainant's rights and with the intention to profit from the Domain Name's association with the same. It is claimed in this respect that the reputation of the Complainant's marks is such that the Respondent must have been aware of those marks. The difficulty however, with this contention is that although the Complainant has provided evidence of a degree of fame and reputation in the United States, little evidence is advanced of a broader reputation elsewhere. The Panel is also unpersuaded by the Complainant's contentions as to "constructive knowledge". The concept of "constructive knowledge" or "constructive notice" is a controversial one under the UDRP and has only been applied by some panels in limited circumstances (see section 3.2.2 of the [WIPO Overview 3.0](#)). This is also not a case where the concept of "willful blindness" or "Nelsonian blindness" might be said to apply (see section 3.2.3 of the [WIPO Overview 3.0](#)).

6.19 Further, there is the fact that the term Milly is a relatively common female name, which might conceivably have been chosen as part of a domain name for many legitimate reasons that are unrelated to the Complainant.

6.20 Notwithstanding this, there are factors that at least support the Complainant's claims that the Domain Name was registered with actual knowledge of the Complainant and with the intention to target the Complainant's rights.

6.21 The first is the fact that the Complainant has used the domain name <milly.com> for a website that promotes its business for many years. Notwithstanding that there are now a large number of different gTLD's, ".com" registrations remain the most sought after of domain names. It is, therefore, inherently probable that a person seeking to register a domain name that takes the form <[term].[gTLD]> will at least be aware of how the equivalent ".com" domain name has been used.

6.22 The second is the fact that the Domain Name has been used since registration to display pay per click links promoting products or companies that compete with the Complainant. There are potential issues with reliance upon the content of pay per click pages. For example, the content of those pages can differ depending on the location of the viewer (see for example *Grupo Costamex, S.A. de C.V. (COSTAMEX), Operación y Supervisión de Hoteles, S.A. de C.V. (OPYSSA) v. Vertical Axis Inc* WIPO Case No. [D2013-1829](#)). Sometimes that content, particularly if only displayed for a short period of time, can also be explained away by the actions of a Registrar (for a unusual case where this Panel – as part of a three person panel - accepted that this was so, see *A. D. Banker & Company v. Domain Invest* WIPO Case No. [D2010-1044](#)).

6.23 However, such pay per click use will frequently constitute evidence, falling within the scope of paragraph 4(b)(iv) of the Policy, that there has been both bad faith registration and bad faith use. There is also no evidence before the Panel that the links promoting products or companies that compete with the Complainant upon which the Complainant relies, were either fleeting or unrepresentative.

6.24 Further, the general approach of panels when it comes to pay-per-click usage of a domain name is conveniently summarised in section 3.5 of the WIPO Overview, which states as follows:

“Can third-party generated material ‘automatically’ appearing on the website associated with a domain name form a basis for finding bad faith?”

Particularly with respect to 'automatically' generated pay-per-click links, panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links ipso facto vest the respondent with rights or legitimate interests).

Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith.

While a respondent cannot disclaim responsibility for links appearing on the website associated with its domain name, panels have found positive efforts by the respondent to avoid links which target the complainant's mark (e.g., through "negative keywords") to be a mitigating factor in assessing bad faith."

6.25 With this in mind, the Panel concludes that the Complainant has advanced a case that, in the absence of any admissible argument or evidence to the contrary and on the balance of probabilities (albeit only just), demonstrates that the Domain Name was registered and has been used in bad faith. The Panel, therefore, finds that the Complainant has established the third element of the Policy.

7. Decision

7.1 For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <milly.bot> be transferred to the Complainant.

/Matthew S. Harris/

Matthew S. Harris

Sole Panelist

Date: August 28, 2025