

ADMINISTRATIVE PANEL DECISION

The Phyto Group, Inc. v. David Diogo
Case No. D2025-4077

1. The Parties

The Complainant is The Phyto Group, Inc., United States of America ("United States"), represented by Mosaic Legal Group, PLLC, United States.

The Respondent is David Diogo, Canada.

2. The Domain Name and Registrar

The disputed domain name <yummatcha.com> 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 October 6, 2025. On October 6, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 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 (Unknown/Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 14, 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 October 14, 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 October 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 18, 2025.

The Center appointed Jeremy Speres as the sole panelist in this matter on November 21, 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 uncontested facts are as follows. The Complainant has, since 2018, traded in tea products, specifically matcha tea, under its YUM MATCHA mark. The Complainant's primary website is hosted at its domain name <yummatchatea.com>, which it registered in 2018.

The Complainant's mark is registered in the United States under Trademark Registration No. 5758793 YUM MATCHA in class 30, having a registration date of May 21, 2019, and a use in commerce date of August 20, 2018.

The disputed domain name was registered on June 25, 2024, and currently resolves to a website entitled "Yum Matcha - Delightful Matcha Experience", including a contact form inviting users to enter their contact details and a message.

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 was registered and has been used in bad faith in order to take advantage of confusion with the Complainant's mark for the Respondent's commercial gain.

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 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 shown rights in respect of a trademark 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, apart from the space. Spaces within a trademark can be disregarded for purposes of assessing identity (*Novomatic AG v. Oleg Bakanach*, WIPO Case No. [D2020-1667](#)). Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

For the reasons discussed in relation to bad faith below, it is likely that the Respondent registered the disputed domain name to take advantage of confusion with the Complainant’s mark. The Respondent’s registration and use of the disputed domain name in these circumstances cannot represent a bona fide offering of goods or services under paragraph 4(c)(i) of the Policy and cannot confer rights or legitimate interests. *Sistema de Ensino Poliedro Vestibulares Ltda., Editora Poliedro Ltda. v. Anonymize, Inc. / STANLEY PACE*, WIPO Case No. [D2022-1981](#).

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.

For the following reasons, the Panel finds that it is more likely than not that the Respondent registered and has used the disputed domain name to take advantage of confusion with the Complainant’s mark for the Respondent’s commercial gain, falling squarely within paragraph 4(b)(iv) of the Policy.

The Complainant has been using its mark for over seven years. Internet searches for the Complainant’s mark, which is identical to the second-level portion of the disputed domain name (disregarding the space), reveal results overwhelmingly relating to the Complainant, showing that the Complainant enjoys goodwill in its mark, at least within the tea industry.

The Complainant points out that the domain name of the Respondent’s email address (<gardentocup.com>) is associated with a competing tea company named “Garden to Cup” that also sells matcha. The Panel has independently established, in accordance with its powers of independent research articulated inter alia in paragraphs 10 and 12 of the Rules, that the Respondent’s name matches that of the publicly listed founder of this competing company. In the absence of any response from the Respondent, it appears likely that the Respondent is in fact associated with this competing tea company. The Respondent is therefore likely to be active in and knowledgeable about the tea industry. Given the Complainant’s longstanding trade and apparent goodwill in its mark in the very same industry, this points to knowledge on the Respondent’s part of the Complainant and targeting.

In the circumstances, it is appropriate to infer that the Respondent either knew or should have known that the disputed domain name would be identical to the Complainant's mark. This points to bad faith targeting under paragraph 4(b)(iv) of the Policy. [WIPO Overview 3.0](#), section 3.2.2.

The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for. [WIPO Overview 3.0](#), section 4.3.

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 <yummatcha.com> be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: November 30, 2025