

## **ADMINISTRATIVE PANEL DECISION**

Vivian Heredia v. Murdoko Perdana  
Case No. D2026-1586

### **1. The Parties**

The Complainant is Vivian Heredia, United States of America (“United States”), represented by McCharles House, United States.

The Respondent is Murdoko Perdana, Cambodia.

### **2. The Domain Name and Registrar**

The disputed domain name <mccharleshouse.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 15, 2026. On April 15, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 15, 2026, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf / Steven Wisata) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 16, 2026, 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 amendment to the Complaint on April 16, 2026.

The Center verified that the Complaint together with the amendment to 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 April 22, 2026. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 15, 2026.

The Center appointed Edoardo Fano as the sole panelist in this matter on May 27, 2026. 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.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), “to employ reasonably available means calculated to achieve actual notice to [the] Respondent”. Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a Response from the Respondent.

The language of the proceedings is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

The Complainant is Vivian Heredia, based in United States and operating a tea house and event venue located in Tustin, California, United States, since 1985, under the unregistered trademark MCCHARLES HOUSE.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on May 27, 1998. The Complainant claims that it previously owned the disputed domain name, its registration domain name lapsed and the Respondent immediately acquired the disputed domain name via automated drop-catching, using it, before the Complaint was filed, to host an online gambling portal. The disputed domain name is currently inactive.

#### **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 disputed domain name is identical to its unregistered trademark.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since it has no connection to the Complainant's business, has never acquired trademark or service mark rights in that name, and is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Respondent immediately acquired the disputed domain name via automated drop-catching as soon as the Complainant's registration of the disputed domain name temporarily lapsed, and then used the disputed domain name, before the Complaint was filed, to host an illicit online gambling portal, rerouting users seeking the Complainant's family-oriented venue to offshore betting services. Therefore, the Respondent targeted the Complainant's unregistered trademark at the time of registration of the disputed domain name, and the Complainant contends that both the previous use and the current passive holding of the disputed domain name qualifies as bad faith registration and use.

## **B. Respondent**

The Respondent has made no reply to the Complainant's contentions and is in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Select UDRP Questions, Third Edition ("[WIPO Overview 3.1](#)"), section 4.3.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 3.1](#), section 1.7.

Based on the unrebutted record presented (including media publications discussing use of the mark by the Complainant since at least 1999), the Panel finds that MCCHARLES HOUSE has acquired relevant secondary meaning in connection with the Complainant's services offered under the mentioned sign sufficient to confer trademark rights on the Complainant. The Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.3.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the Complainant's unregistered trademark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

It is also well accepted that a generic Top-Level Domain ("gTLD"), in this case ".com", is typically disregarded when assessing the confusing similarity between a trademark and a domain name. [WIPO Overview 3.1](#), section 1.11.1.

Based on the available record, 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.

While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.1](#), section 2.1.

Having reviewed the 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.

Based on the available record, 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, regarding the registration in bad faith of the disputed domain name, the Complainant claims that it previously owned the disputed domain name and that the Respondent immediately acquired the disputed domain name via automated drop-catching as soon as the Complainant's registration of the disputed domain name lapsed. While the Panel notes that the Complainant has not provided evidence of its prior ownership of the disputed domain name, the Panel's independent research<sup>1</sup> on Internet Archive corroborates that, at least as early as 2019, the disputed domain name resolved to a website operated by the Complainant in connection with its McCharles House tea venue.<sup>2</sup> Further, the Complainant claims that its tea house has been in operation since 1985, providing copies of media publications dated 1999 discussing its business. While these publications postdate the registration date of the disputed domain name, the Panel has been able to ascertain that the Complainant's venue operated at least as early as December 1987,<sup>3</sup> which predates the registration date of the disputed domain name.

Having regard to the circumstances of this case and, in particular, the Complainant's prior ownership of the disputed domain name, the Panel finds that the Respondent deliberately registered the disputed domain name in bad faith, targeting the Complainant.

The use of the disputed domain name for a gambling website does not amount to a legitimate noncommercial or fair use. As regards the current passive holding of the disputed domain name, panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not by itself prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.1](#), section 3.3. Having reviewed the record, the Panel notes the fact that the Complainant previously operated the disputed domain name, the composition and previous use of the disputed domain name to host an online gambling portal, and the failure of the Respondent to submit a response, and finds that in the circumstances of this case, the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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<sup>1</sup> Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the Rules, 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. [WIPO Overview 3.1](#), section 4.8.

<sup>2</sup> "[www.web.archive.org/web/20190921100355/http://mccharleshouse.com/](http://www.web.archive.org/web/20190921100355/http://mccharleshouse.com/)" "[http://www.mccharleshouse.com/Our\\_Philosophy.html](http://www.mccharleshouse.com/Our_Philosophy.html)".

<sup>3</sup> "[www.latimes.com/archives/la-xpm-1987-12-31-li-7561-story.html](http://www.latimes.com/archives/la-xpm-1987-12-31-li-7561-story.html)".

## 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 <mccharleshouse.com> be transferred to the Complainant.

*/Edoardo Fano/*

**Edoardo Fano**

Sole Panelist

Date: June 9, 2026