

ADMINISTRATIVE PANEL DECISION

Smashburger IP Holder LLC v. Malik Asif

Case No. D2026-1645

1. The Parties

The Complainant is Smashburger IP Holder LLC, United States of America (“United States”), represented by Com Laude Limited, United Kingdom.

The Respondent is Malik Asif, Pakistan, self-represented.

2. The Domain Name and Registrar

The disputed domain name <smashburgermenu.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 17, 2026. On April 17, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 20, 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, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 20, 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 amended Complaint on April 22, 2026.

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 April 23, 2026. In accordance with the Rules, paragraph 5, the due date for Response was May 13, 2026. The Respondent sent email communications to the Center on May 9, and May 13, 2026. On May 15, 2026, the Center notified the parties that it would proceed to panel appointment.

The Center appointed Assen Alexiev as the sole panelist in this matter on May 18, 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.

4. Factual Background

The Complainant operates the United States multinational fast-food hamburger chain Smashburger. It was founded in 2007, and now includes over 200 stores in six countries. The Complainant's official website is located at the domain name <smashburger.com>.

The Complainant is the owner of a number of trademark registrations for SMASHBURGER (the "SMASHBURGER Trademark"), including the following representative registrations:

- the United States trademark SMASHBURGER with registration No. 3531675, registered on November 11, 2008, for services in International Class 43;
- the International trademark SMASHBURGER with registration No. 1041684, registered on May 20, 2010, for services in International Class 43; and
- the Indian trademark SMASHBURGER with registration No. 2138569, registered on May 2, 2011, for services in International Class 43.

The disputed domain name was registered on October 26, 2025. It resolves to a website with the title "Smashburger Menu with Prices and Calories | Updated Guide". The website describes itself in the following terms in its "About Us" section:

"Welcome to smashburgermenu.com, your helpful online guide for exploring Smashburger menu items, pricing, and meal choices. Our purpose is to make it easier for visitors to compare options, check calorie information, and plan their meals with confidence before ordering."

The website displays photos of menu items offered in Smashburger restaurants with indicated prices and nutritional information. The website also includes the following disclaimer at the bottom of the page:

"smashburgermenu.com is an independent resource that provides information about Smashburger menu items, pricing, and nutrition details. We are not associated with or endorsed by Smashburger or any related companies. All trademarks and brand names belong to their respective owners. For official news, corporate updates, employment information or franchise inquiries, please visit the official Smashburger website at www.smashburger.com"

The disclaimer is followed by the copyright notice: "© 2026 Smashburger Menu With Prices".

The Complainant has submitted evidence that at the time of filing of the Complaint, the website at the disputed domain name indicated incorrect prices and nutritional information about menu items offered in Smashburger restaurants and prominently displayed third-party advertising at the top of each page.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its SMASHBURGER trademark, because it incorporates the trademark in its entirety, combined with the dictionary word "menu". The Complainant maintains that the addition of this word to its trademark does not prevent a finding of confusing similarity under the Policy, but increases the potential for confusion, as Internet users would

assume that the disputed domain name is the Complainant's official domain name featuring the genuine and correct menu of its restaurants.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant points out that the SMASHBURGER trademarks predate the registration of the disputed domain name by almost 17 years. The Complainant states that the Respondent is not commonly known by the disputed domain name and is not a licensee of the Complainant. The Complainant states that the Respondent has no relevant trademark rights and that there is no conceivable use to which the disputed domain name could be put that would confer any legitimate interest upon the Respondent.

The Complainant submits that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, and is not making a legitimate noncommercial or fair use of it. The Complainant states that the disputed domain name carries a risk of implied affiliation, because it fully incorporates the SMASHBURGER trademark in combination with the word "menu", which is closely related to the Complainant's activities, and this risk is increased by the content of the associated website (which includes the Complainant's copyrighted material) and the absence on it of any contact details identifying its operator. According to the Complainant, the disputed domain name thus impersonates or suggests sponsorship or endorsement by it. The Complainant adds that the website at the disputed domain name displays incorrect information about its products and prominently features, on each of its webpages, third-party advertisements that redirect to other websites. According to the Complainant, this shows that the Respondent is using the disputed domain name and the associated website as a pretext for commercial gain.

The Complainant notes that the disputed domain name's zone file is configured with Mail Exchange ("MX") and Sender Policy Framework ("SPF") records, which means that it can be used for email communication. In the Complainant's view, considering that the disputed domain name directly impersonates the Complainant or carries a high risk of implied affiliation, any email originating from the disputed domain name would be confusing and would not give the Respondent a legitimate interest in the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the purpose of the website at the disputed domain name is to confuse and attract Internet users and expose them to third party advertising, from which the Respondent is likely to benefit financially.

The Complainant notes that the Respondent has placed a disclaimer at the bottom of its website, but this disclaimer is not sufficiently prominent.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions.

With its informal communications to the Center on May 9, and May 13, 2026, the Respondent asserted:

- that it had legitimately registered the then freely available disputed domain name;
- that the disputed domain name is "totally different from the [C]omplainant['s] domain name";
- that the content on its website "totally adhere[s] to policies", "clearly says guide which is about calories count" and is related to information based on menus;
- that it does not sell products using the name of the Complainant;
- that the advertisement on its website referred to by the Complainant was served by Google as its website participates in the Adsense program; and
- that it is "on [the] right side" and is "not going to settle this through giving [C]omplainant money".

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 Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 1.7.

The Complainant has shown rights in respect of the SMASHBURGER trademark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The Panel finds that the SMASHBURGER trademark is recognisable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the SMASHBURGER trademark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

Although the addition of other terms (here, "menu") 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 SMASHBURGER trademark for the purposes of the Policy. [WIPO Overview 3.1](#), 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 recognized that proving that 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 3.1](#), 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 noted in section 2.5 of the [WIPO Overview 3.1](#), fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often the central starting point to this inquiry. Where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner.

As also discussed in section 2.5.3 of the [WIPO Overview 3.1](#), judging whether a respondent's use of a domain name constitutes a legitimate fair use will often hinge on whether the corresponding website content prima facie supports the claimed purpose (e.g., for referential use, commentary, criticism, praise, or parody), is not misleading as to source or sponsorship, and is not a pretext for tarnishment or commercial gain.

As further noted in section 2.7.1 of the [WIPO Overview 3.1](#), for purposes of assessing fair use under UDRP paragraph 4(c)(iii), a respondent's fan or informational site must be active, genuine, and clearly distinct from any official complainant site. Similar to claimed criticism sites, there are a number of UDRP cases in which the respondent claims to have a true fan or informational site but the panel finds that it is primarily a pretext for cybersquatting.

The Panel finds that the composition of the disputed domain name suggests that it represents an official online location for the Complainant's SMASHBURGER restaurants or at the very least tends to signal an affiliation with the Complainant. A visit of the associated website confirms this impression, as it is a menu list with many photos of SMASHBURGER menu items (likely to have been copied from the Complainant's official website) with prices in US Dollars and with an indication of their calorie content. There is no information about the provider of the website, and the copyright notice does not disclose the actual website operator (nor is such information disclosed elsewhere on the website) but refers to "Smashburger Menu" instead, which implies an affiliation with the Complainant, and does not in any way indicate that the Respondent is not so affiliated. Further, in the Panel's view, the disclaimer placed on the bottom of the page is not prominent, and visitors would see it only after being exposed to the whole content of the website. The Complainant has also submitted evidence that some of the pricing and calorie information provided on the Respondent's website is inaccurate.

Considering all the above, the Respondent's website cannot be regarded as being a genuine informational website clearly distinct from the Complainant's website. Rather, it appears to be misleading as to its source, sponsorship, and its content does not support the claimed purpose of a true informational website.

In this regard, the evidence submitted by the Complainant shows that this website has also displayed third-party advertising at the top of each page, this advertising being one of the first items a visitor would see when visiting the website. The Respondent confirms that this advertising is being placed on its website as part of its participation in the Google AdSense program, which means that the Respondent is likely to receive some financial gain from this arrangement.

It therefore appears more likely than not that the Respondent's website has been set up to create a pretext for its use for commercial gain which targets the Complainant's trademark. Such conduct cannot give rise to rights or legitimate interests of the Respondent.

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.

The disputed domain name is confusingly similar to the Complainant's SMASHBURGER trademark. As discussed in the section on rights and legitimate interests, the disputed domain name and the associated website appear to have been created as a pretext to exploit the goodwill of the Complainant's trademark for commercial gain by misleading Internet users that they belong to or are affiliated with the Complainant and attracting them to the associated website where they will be exposed to third party commercial links. This supports a finding of registration and use of the disputed domain name in bad faith under 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 <smashburgermenu.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: June 1, 2026