

## **ADMINISTRATIVE PANEL DECISION**

Marathon Digital Holdings, Inc. v. marathondh-miner, marathondh  
Case No. DCC2023-0007

### **1. The Parties**

The Complainant is Marathon Digital Holdings, Inc., United States of America ("United States"), represented by Warshaw Burstein LLP, United States.

The Respondent is marathondh-miner, marathondh, India.

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

The disputed domain name, <marathondh.cc>, is registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 23, 2023. On June 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 2023, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 29, 2023, 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 July 3, 2023.

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 July 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 27, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on August 11, 2023. 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 is a corporation located in Nevada, United States. It is the successor in business to a corporation named Marathon Patent Group as a result of a corporate reorganization. The Complainant mines cryptocurrencies with a focus on the blockchain system and the generation of digital assets.

The Complainant is the owner of trademark registrations (in the name of Marathon Patent Group) including the following:

- United States trademark registration number 6861995 for the word mark MARATHON, registered on October 4, 2022; and
- United States trademark registration number 6861977 for the word mark MARATHON DIGITAL HOLDINGS, also registered on October 4, 2022.

The Complainant operates a website at “www.mara.com” and is the owner of the domain name <marathondh.com> which resolves to that website. The Complainant submits evidence that its website has featured a distinctive abstract image with the wording MARATHON™ DIGITAL HOLDINGS included in the top left hand corner in a stylized form.

The disputed domain name was registered on March 6, 2023.

The Complainant submits evidence that the disputed domain name has resolved to a website which is virtually identical in appearance to the Complainant’s website described above, including the same abstract image and the wording MARATHON™ DIGITAL HOLDINGS included in a similar position and in a similar stylized form.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant submits that the disputed domain name is confusingly similar to its MARATHON and MARATHON DIGITAL HOLDINGS trademarks. It contends that the addition of the letters “dh” to its MARATHON trademark does not eliminate the likelihood of confusion between the disputed domain name and that trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its MARATHON or MARATHON DIGITAL HOLDINGS trademarks, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It contends that since the Respondent’s website replicates its own, it is obvious that the Respondent registered the disputed domain name for the purpose of impersonating the Complainant and causing confusion among Internet users. The Complainant submits that the Respondent operates a business named Marathon Miners which is competitive with the Complainant’s activities and provides evidence that the Respondent’s website redirects Internet users to social media promoting that business.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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**

The Complainant has established that it has registered trademark rights in the marks MARATHON and MARATHON DIGITAL HOLDINGS. The Panel considers the disputed domain name to be confusingly similar to both those trademarks and finds in particular that the addition of the letters "dh" to the Complainant's MARATHON trademark does not prevent that trademark from being recognizable within the disputed domain name. Furthermore, the addition of those letters calls to mind the Complainant's MARATHON DIGITAL HOLDINGS mark. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark or trademarks in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. On the contrary, it is clear to the Panel in this case that the Respondent registered and has used the disputed domain name with the intention of impersonating the Complainant, which cannot amount to legitimate use of the disputed domain name. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

### **C. Registered and Used in Bad Faith**

Based on the evidence submitted by the Complainant, which is not challenged by the Respondent, it is evident to the Panel that the Respondent registered and has used the disputed domain name for the purpose of impersonating the Complainant. The Respondent's website has replicated essential features of the Complainant's website, including its name and trademarks, and has plainly misrepresented to Internet users that it is the Complainant's own website. The Panel also notes the similarity between the disputed domain name and the Complainant's own domain name, <marathondh.com>. The Panel further accepts the Complainant's submission that the Respondent's website has redirected Internet users to social media operated by the Respondent's Marathon Miners business, which operates in a similar area to that of the Complainant.

The Panel finds in these circumstances that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy). The Panel therefore finds in that the disputed domain name has been registered and is being used in bad faith.

## **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, <marathondh.cc>, be transferred to the Complainant.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: August 21, 2023