

## **ADMINISTRATIVE PANEL DECISION**

Easy Online Solutions, Ltd. d/b/a MojoHost v. SeaBlue Waves  
Case No. D2024-0414

### **1. The Parties**

The Complainant is Easy Online Solutions, Ltd. d/b/a MojoHost, United States of America, represented by Silverstein Legal, United States of America (the “US”).

The Respondent is SeaBlue Waves, Switzerland.

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

The disputed domain name <mojo-hosting.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 January 30, 2024. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 30, 2024, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 6, 2024, 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 February 6, 2024.

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 February 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 6, 2024.

The Center appointed Taras Kyslyy as the sole panelist in this matter on March 14, 2024. 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 Michigan corporation of the US providing website hosting services under MOJOHOST mark since April 1, 2004. The Complainant owns the US registration No. 4177472 for its MOJOHOST trademark, registered on July 24, 2012.

The Complainant also owns the <mojohost.com> domain name through which its services are offered.

The disputed domain name was registered on September 30, 2023, and resolved to a website containing pay-per-click links to third party websites offering services competing with the Complainant. At the time of the decision in the present case the disputed domain name redirects to a third party webpage, where the disputed domain name is offered for sale for USD10,000.

#### **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 is identical or confusingly similar to the Complainant's trademark. The disputed domain name incorporates the entire Complainant's trademark with the addition of only the letters "ing." This similarity is likely to cause consumer confusion and the addition of the letters "ing" in conjunction with "mojohost" does not eliminate the likelihood of confusion.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent registered the disputed domain name long after the Complainant registered its trademark and long after the Complainant began using its trademark. The Respondent is not a licensee of the Complainant nor is the Respondent otherwise authorized to use the Complainant's trademark for any purpose. The Respondent has no rights or legitimate interests. The Respondent is not commonly known as "mojo-hosting". The Respondent has no connections to the word "mojo-hosting", and the disputed domain name cannot be said to be a nickname of the Respondent or in any other way identified with or related to any legitimate interest of the Respondent. The disputed domain name resolved to a website containing pay-per-click ads. The Respondent cannot claim a bona fide offering of goods in relation to this use, since the Respondent capitalizes on the reputation and goodwill of the Complainant's trademark to mislead Internet users by linking to third-party websites that offer website hosting services in direct competition with the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent is said to be infringing the Complainant's trademark, which is itself sufficient to support a finding of bad faith registration and use. The Complainant's trademark has according to the Complaint the status of a well-known and reputed trademark with a substantial and widespread reputation throughout the world. The considerable value and goodwill of the Complainant's trademark could not have been unknown to the Respondent. This knowledge is what made the Respondent register the disputed domain name. The use of pay-per-click ads to misleadingly direct users to the Complainant's competitors is evidence of bad faith. The Respondent knowingly registered the disputed domain name containing an almost exact reproduction of the Complainant's trademark and to capitalize on consumer recognition of the Complainant's trademark.

## **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 (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. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, a hyphen and "ing", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), 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 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.

The available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated bona fide or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The previous use of the disputed domain name to host a parked page comprising pay-per-click links does not represent a bona fide offering as such links competed with and capitalized on the reputation and goodwill of the Complainant's trademark. [WIPO Overview 3.0](#), section 2.9.

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, the Panel notes that the Respondent registered the disputed domain name confusingly similar to the Complainant's trademark and placed there a website with pay-per-click links resolving to websites competing with the Complainant in terms of the offered services. The Panel finds that this confirms the Respondent knew or should have known of the Complainant and its trademark while registering the disputed domain name, which confirms bad faith. [WIPO Overview 3.0](#), section 3.2.2.

According to paragraph 4(b)(iv) of the Policy the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location. Using the disputed domain name to host a pay-per-click parking page, the Respondent creates a likelihood of confusion with the Complainant's trademark and potentially obtains revenue from this practice. Under such circumstances the Panel finds that the disputed domain name was used in bad faith.

Current use of the disputed domain name to offer it for sale at USD10,000 indicates that the Respondent has registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain name, which is bad faith. [WIPO Overview 3.0](#), section 3.1.

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 <mojo-hosting.com> be transferred to the Complainant.

/Taras Kyslyy/

**Taras Kyslyy**

Sole Panelist

Date: March 28, 2024