

ADMINISTRATIVE PANEL DECISION

President and Fellows of Harvard College v. Renato Andrade Case No. D2022-0589

1. The Parties

The Complainant is President and Fellows of Harvard College, United States of America (“United States”), represented by Sunstein LLP, United States.

The Respondent is Renato Andrade, Brazil.

2. The Domain Name and Registrar

The disputed domain name <harvardsexweek.org> 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 February 19, 2022. On February 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 22, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 23, 2022, 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 the same day.

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 February 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 23, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on March 25, 2022. 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 Commonwealth of Massachusetts, United States, corporation. It is the body responsible for the administration of Harvard University.

The Complainant is the owner of trademark registrations for the mark HARVARD including, for example, United States registration number 1608533 for the word mark HARVARD, registered on July 31, 1990, for education services in International Class 41.

The disputed domain name was created on February 22, 2017. The Complainant submits that it was acquired by the Respondent on or about December 30, 2020.

The Complainant submits that the disputed domain name has resolved to a website featuring pornographic content.

5. Parties' Contentions

A. Complainant

The Complainant states that Harvard University was founded in 1636 and is the United States' oldest higher education institution, with over 18,000 students enrolled over a variety of academic schools. It submits that its trademark HARVARD is among the world's most famous and well-known trademarks and cites numerous prior decisions under the UDRP in support of that contention (see *e.g. President and Fellows of Harvard College v. Rachel McGhin, Website*, WIPO Case No. [D2016-1220](#)).

The Complainant submits that the name "Harvard Sex Week" was coined in 2012 by a student group named "Sexual Health & Advocacy throughout Harvard College" ("SHEATH") and referred to an annual event promoting sexual health and wellness. The Complainant states that SHEATH registered the disputed domain name in connection with that event but subsequently allowed the registration to lapse.

The Complainant submits that the disputed domain name is confusingly similar to its HARVARD trademark. It contends that the additional terms "sex" and "week" do not distinguish the disputed domain name from that trademark and that Internet users will be confused into believing that the disputed domain name is associated with the Complainant.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has never licensed or permitted the Respondent to use its HARVARD trademark and that the Respondent is using the disputed domain name solely for the purpose of attracting Internet users to a pornographic website by falsely implying an association between that website and the Complainant.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It contends that there is no plausible explanation for the Respondent to have registered a domain name which includes the trademark HARVARD other than to mislead Internet users and that the Respondent has used the disputed domain name intentionally to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark.

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; 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 or is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights in the mark HARVARD. The disputed domain name wholly incorporates that trademark, together with the additional terms "sex" and "week", which do not prevent the Complainant's trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark 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 any 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. As further discussed below, the Panel finds that the disputed domain name is inherently misleading and that it has been used to resolve to a website containing pornographic content. Such use by the Respondent cannot give rise to rights or legitimate interests in respect of the disputed domain name and 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

The Panel accepts the Complainant's submissions that its HARVARD trademark is widely known and also that its affiliated student group coined the phrase "Harvard Sex Week" and originally registered the disputed domain name for the purposes of an annual sexual health and wellness event. The Panel's brief review of the Internet Archive reveals that the disputed domain name was indeed used for a website connected with that event between 2017 and early 2020. In the circumstances, it is impossible to conceive that the Respondent registered the disputed domain name other than with knowledge of the Complainant and the "Harvard Sex Week" event and with the intention of taking unfair advantage of the Complainant's reputation and goodwill attaching to its trademark. The Panel finds the disputed domain name to be inherently misleading, as inevitably suggesting to Internet users that it is operated or otherwise associated with the Complainant. The Panel also infers that the Respondent has obtained a financial benefit from Internet users being diverted to its pornographic website. The Panel therefore finds 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 mark 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 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, <harvardsexweek.org>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: April 6, 2022