

## **ADMINISTRATIVE PANEL DECISION**

Sfanti Grup Solutions SRL v. Domain Admin, Whois Privacy Corp / Dmitri Iasibas

Case No. D2022-2309

### **1. The Parties**

The Complainant is Sfanti Grup Solutions SRL, United States of America (“United States”), represented by Lawrence G. Walters, United States.

The Respondent is Domain Admin, Whois Privacy Corp, Bahamas / Dmitri Iasibas, Republic of Moldova.

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

The disputed domain name <megapersonalseu.com> is registered with Internet Domain Service BS Corp (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 25, 2022. On June 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 29, 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 June 30, 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 amendment to the Complaint on July 1, 2022.

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 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 27, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on August 8, 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 corporation located in Florida, United States. It is a provider of online social introduction and dating services.

The Complainant is the owner of United States trademark registration number 6432591 for the word mark MEGAPERSONALS, registered on July 27, 2021, with a filing date of October 26, 2020. The trademark is registered in International Class 45, for services including “Providing Internet-based social introduction services.”

The disputed domain name was registered on April 22, 2021.

According to evidence submitted by the Complainant, the disputed domain name has resolved to a website headed “Megapersonals – Best guide on Megapersonals escorts – Top hookup tips 2022.” It includes links to “Best hookup adventure” and “Top Escort Sites Similar to Megapersonals” including a link to “Adultsearch”.

#### **5. Parties’ Contentions**

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

The Complainant submits that it is the owner of the domain names <megapersonals.com> and <megapersonals.eu> and that it has used the first of these domain names for its services since at least March 30, 2004. However it also states that it registered the domain name <megapersonals.com> on June 11, 2013, which the Panel notes does not appear to be consistent with the above. The Complainant also exhibits a “Wayback Machine” capture for that domain name dated March 30, 2004, which does not identify the domain name owner and appears to resolve to an “adults only” website containing sexually explicit material.

The Complainant submits that the disputed domain name is identical or confusingly similar to its MEGAPERSONALS trademark. It contends that the disputed domain name wholly incorporates that trademark and that the additional letters “eu” in the domain name, which reflect its own <megapersonals.eu> domain name, do not distinguish the disputed domain name from that trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It contends that it has not authorized the Respondent to use its MEGAPERSONALS trademark, that the Respondent has not commonly been known by that trademark and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name. Instead, the Complainant submits that the Respondent is using the disputed domain name to divert Internet users to a website which includes links to services which are competitive with its own online services.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It contends that, while its MEGAPERSONALS trademark was not registered until July 27, 2021, it had filed that trademark application as early as October 26, 2020, *i.e.* several months before the Respondent’s registration of the disputed domain name. It also reiterates that it had used the relevant trademark since at least March 30, 2004. The Complainant submits that it is obvious in the circumstances that the Respondent registered the disputed domain name in anticipation of the Complainant’s trademark rights (see *e.g.*, section

3.8.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#))).

The Complainant submits that the disputed domain name is misleading and amounts to an impersonation of its own domain name <megapersonals.eu>.

The Complainant submits that the Respondent is using the disputed domain name to create a likelihood of confusion between the disputed domain name and its MEGAPERSONALS trademark and thereby to divert Internet users to its website, where it provides information about the Complainant but also links to competing services. The Complainant relies on this regard to the links on the Respondent’s website to “Best hookup adventure” and “Adultsearch” and contends that the Respondent is likely to be receiving pay-per-click (“PPC”) revenues in respect of referrals to those websites.

The Complainant exhibits a cease and desist letter sent to the Respondent on April 11, 2022, to which it states no response was received.

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 is the owner of registered trademark rights in the mark MEGAPERSONALS. The disputed domain name is identical to that trademark but for the addition of the letters “eu” which do not prevent the 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. It is irrelevant for the purposes of paragraph 4(a)(i) of the Policy (although potentially relevant to paragraphs 4(a)(ii) and (iii)) that the disputed domain name was registered before the registration date of the Complainant’s trademark.

### **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.

As discussed below, the Panel finds that the Respondent registered and has used the disputed domain name misleadingly to divert Internet users to a website containing links to services competitive with those of the Complainant, which does not constitute 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**

The Panel finds the Complainant's trademark MEGAPERSONALS to be distinctive. In addition, despite there being some uncertainty over the initial ownership and use of the domain name <megapersonals.com>, the Panel accepts that the Complainant had used that domain name in connection with online dating services for at least several years prior to the Respondent's registration of the disputed domain name and had therefore obtained rights in the nature of unregistered trademark rights in that mark. Furthermore, in the absence in particular of any contradiction by the Respondent, the Panel accepts the Complainant's submission that the Respondent is likely to have registered the disputed domain name in the knowledge of the Complainant's United States trademark filing for the MEGAPERSONALS trademark and in anticipation of that trademark being registered

The Panel finds that the disputed domain name is inherently misleading, in inevitably suggesting to Internet users that it is owned or operated by, or otherwise licensed by, or commercially affiliated with, the Complainant. The Panel finds further that the Respondent has used the disputed domain name to divert such Internet users to a website which reproduces the Complainant's MEGAPERSONALS trademark, relates to online dating services and includes links to services which are competitive with those of the Complainant. 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 concludes 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, <megapersonalseu.com>, be transferred to the Complainant.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: August 19, 2022