

ADMINISTRATIVE PANEL DECISION

Marathon Digital Holdings, Inc. v. Steven Chaser
Case No. D2023-4332

1. The Parties

The Complainant is Marathon Digital Holdings, Inc., United States of America (U.S.), represented by Warsaw Burstein LLP, U.S.

The Respondent is Steven Chaser, U.S.

2. The Domain Name and Registrar

The disputed domain name <marathondigital-holding.org> (the “Disputed Domain Name”) is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 18, 2023. On October 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 19, 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 October 20, 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 October 23, 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 October 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 15, 2023.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on November 21, 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 states that it was founded on February 23, 2010, under the name Verve Ventures, Inc., and after a series of name changes and mergers, changed its name to Marathon Digital Holdings on February 27, 2021. The Complainant states that it “mines cryptocurrencies with a focus on the blockchain ecosystem and the generation of digital assets.”

The Complainant states, and provides evidence to support, that it (directly or via an entity with which it merged) owns a number of trademark registrations, including the following (the “MARATHON DIGITAL HOLDINGS Trademark”):

- Int’l Reg. No. 1,611,535 for MARATHON DIGITAL HOLDINGS (registered July 1, 2021)
- U.S. Reg. No. 6,861,977 for MARATHON DIGITAL HOLDINGS (registered October 4, 2022)
- U.S. Reg. No. 6,861,976 for MARATHON DIGITAL HOLDINGS & Design (registered October 4, 2022)
- Canadian Reg. No. TMA1,175,960 for MARATHON DIGITAL HOLDINGS & Design (registered April 12, 2023)

The Disputed Domain Name was created on June 4, 2023. The Complainant states that “Respondent offers the same or similar cryptocurrency mining services offered by [Complainant],” and a screenshot provided by the Complainant shows the Disputed Domain Name associated with a website referring to “Bitcoin mining rigs.”

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.

Among other things, the Complainant contends that:

- The Disputed Domain Name is identical or confusingly similar to the MARATHON DIGITAL HOLDINGS Trademark because the Disputed Domain Name “fully incorporates” the MARATHON DIGITAL HOLDINGS Trademark.
- The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because “Respondent is not known as Marathon Digital Holdings,” “Respondent has no registered trademarks or trade names corresponding to the Domain Name,” “Complainant has not granted any authorization to the Respondent to register a domain name containing its trademark(s) or otherwise make use of its mark(s),” “no commercial relationship exists between Complainant and Respondent,” and “when a website effectively copies a Complainant’s website this cannot constitute rights to or legitimate interests in the Domain Name.”

The Disputed Domain Name was registered and is being used in bad faith because “the use of the Domain Name for a website, www.marathondigital-holding.org, that recreates and imitates Complainant’s official website amounts to registration and use of the Domain Name in bad faith,” “Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant,” and “incorporation of a well-known trademark in a domain name without plausible explanation is in itself an indication of bad faith.”

B. Respondent

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

6. Discussion and Findings

Pursuant to the Policy, the Complainant is required to prove the presence of each of the following three elements to obtain the relief it has requested, with respect to the Disputed Domain Name: (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. Policy, paragraph 4(a).

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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the Disputed Domain Name only omitting the letter "s". Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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.

Based on the available record, 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 has used the Disputed Domain Name in connection with a website that offers services similar to those associated with the MARATHON DIGITAL HOLDINGS Trademark. The Panel finds that this constitutes bad faith under paragraph 4(b)(iv) of the Policy because it shows that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

Based on the available record, 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 <marathondigital-holding.org> be transferred to the Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: November 27, 2023