

## **ADMINISTRATIVE PANEL DECISION**

MasterControl Solutions, Inc. v. Alex Joe/ sdgrrhtethrth eththtrh  
Case No. D2024-0509

### **1. The Parties**

The Complainant is MasterControl Solutions, Inc., United States of America (“United States” or “US”), represented by Reed Smith LLP, United States.

The Respondents are Alex Joe, United States, and sdgrrhtethrth eththtrh, Italy.

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

The disputed domain names <mastarcontrol.com> and <mastrecontrol.com> are registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 2, 2024. On February 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 5, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Currently Unknown) and contact information in the Complaint.

The Center sent an email communication to the Complainant on February 7, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on February 12, 2024.

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 Respondents of the Complaint, and the proceedings commenced on February 15, 2024. In accordance with the Rules,

paragraph 5, the due date for Response was March 6, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on March 8, 2024.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on March 20, 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**

Established in 1993, the Complainant has grown into a global leader in enterprise quality management software in the life sciences industry.

The Complainant owns 14 trademark registrations in 11 jurisdictions, including the following marks in the United States, such as

- MASTERCONTROL, US no. 4,447,654 registered on December 10, 2013, for class 9,
- MASTERCONTROL, US no. 6,097,438 registered on July 7, 2020, for classes 9 and 42.

The Complainant operates a few websites at domain names incorporating its own trademarks, such as <www.mastercontrol.com>, <mastercontrolcustomers.com>, <mastercontrol.cn>, <mastercontrol.engineering>, <mastercontrol.technology>.

The disputed domain names were registered:

- <mastrecontrol.com> on November 30, 2023, and
- <mastarcontrol.com> on December 5, 2023.

The disputed domain names currently do not resolve to any active websites. The evidence in the Complaint reflects the use of the disputed domain names as part of a phishing scheme in which the Respondents impersonate the Complainant, as further described below.

#### **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 names.

Notably, the Complainant contends that:

(1) The disputed domain names are confusingly similar to the Complainant's trademarks. The only difference is the substitution of "e" for "a" in the term "master" in one and the transposition of the letters "e" and "r" in the term "master" in the other disputed domain name. For the foregoing reasons, and because the disputed domain names are visually and phonetically similar to the trademarks and domain names owned by the Complainant, consumers encountering the disputed domain names are likely to be, and have been, confused into believing that there is some relation, affiliation, connection, approval, or association between the Respondents and the Complainant, when, in fact, no such relationship exists.

(2) The Respondents have no rights or legitimate interests in the disputed domain names. The Respondents are not referred to or commonly known by the disputed domain names and have no legal relationship with the Complainant. Nor has the Complainant ever licensed or otherwise permitted the Respondents to use the Complainant's trademarks or apply for or use any domain names that incorporate or

are similar to these trademarks. The Respondents have no identifiable history of using the disputed domain names in connection with a bona fide offering of goods or services. In fact, to the best of the Complainant's knowledge, the Respondents have not developed any legitimate business relating to or incorporating the disputed domain names. The Respondents seem to have registered and exclusively used the disputed domain names and email addresses associated with the same to impersonate the Complainant and carry out a phishing scheme.

(3) The Respondents have registered and used the disputed domain names in bad faith, namely for the associated email addresses "[...].@mastrecontrol.com" and "[...].@mastarcontrol.com", as part of a phishing scheme in which the Respondents impersonate the Complainant and attempt to deceive customers or consumers into disclosing sensitive information and transferring funds under false pretenses by disseminating fraudulent invoices that prominently feature the Complainant's name and logo. The Respondents' intentional adoption of a confusingly similar disputed domain names to attract internet users and cause source, sponsorship, or affiliation confusion constitutes presumptive evidence of bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10I of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragrap(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the disputed domain names:

- a) share an identical Registrar, nameserver, and privacy service;
- b) are both common misspellings of MASTERCONTROL and are typo-squatted iterations of MASTERCONTROL and the Complainant's <mastercontrol.com> domain (a pattern of similar behaviour);
- c) were registered within five days of one another;
- d) were both used to perpetrate a single fraud (a specific pattern of use), specifically both disputed domain names were used as an e-mail domain "[...].@mastrecontrol.com" and "[...].@mastarcontrol.com" for fraudulent e-mails (passing-off, impersonation);
- e) target the same trademark and follow the same composition pattern;
- f) both resolve to inactive sites.

The Respondents have not replied to the Complaint.

The Center has discharged its duties to notify the persons listed as registrants of the disputed domain names. The Respondents have not submitted a formal Response or objected to the consolidation request of the Complainant or to its arguments in support of the request.

As regards to fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

## **6.2 Substantive issues**

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith. The onus of proving these elements is on the Complainant. Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

The Respondent failed to submit a response in accordance with paragraph 5(a) of the Rules. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, the Panel’s decision shall be based upon the Complaint.

The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant’s contentions.

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

### **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 3.0](#), section 1.7.

Based on the evidence in the case file, the Panel finds that the Complainant has shown rights in respect of MASTERCONTROL trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Complainant’s trademark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Furthermore, the Panel considers that the misspelling of the Complainant’s trademark within the disputed domain names <mastrecontrol.com> and <mastarcontrol.com> cannot prevent a finding a confusing similarity ([WIPO Overview 3.0](#) at section 1.9).

It is well accepted by UDRP panels that a gTLD, such as “.com”, is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark. See section 1.11.1 of the [WIPO Overview 3.0](#). Therefore, the Panel is of the view that the disputed domain names are confusingly similar to the Complainant’s mark.

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 names.

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 names such as those enumerated in the Policy or otherwise.

The Respondent is not referred to or commonly known by the disputed domain names and has no legal relationship with the Complainant. Nor has the Complainant ever licensed or otherwise permitted the Respondent to use the Complainant’s trademarks or apply for or use any domain names that incorporate or are similar to these trademarks.

The Respondent has not demonstrated rights or legitimate interests in the disputed domain names by showing, before any notice to the Respondent of the dispute, that the Respondent has made use or demonstrable preparations to use the disputed domain names or a name corresponding to the disputed domain names in connection with a bona fide offering of goods or services nor has the Respondent been commonly known by the disputed domain names nor has the Respondent made a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademark at issue.

The Complainant provided evidence confirming that the Respondent used the disputed domain names for fraudulent purposes, namely dispatching emails associated with the disputed domain names pretending to originate from the Complainant and soliciting for payment by a third party. Therefore, it is difficult to see that the disputed domain names could be put into any legitimate or bona fide use.

The Panel notes, as it was found by the previous UDRP panels, any type of impersonation or passing off supports the finding that the respondent has no rights or legitimate interests in the domain name. See section 2.13.1 of the [WIPO Overview 3.0](#).

Moreover, given that the disputed domain names consist of a misspelling of the Complainant’s trademark, the Panel struggles to conceive any rights or legitimate interests of the Respondent in the disputed domain names. Under such circumstances, any use of the disputed domain names by the Respondent only increases the possibility of the Internet users to falsely attribute the disputed domain names to the activities

of the Complainant. Such being the intent of the Respondent, considering the use of the typosquatting disputed domain names for a fraudulent email scheme impersonating the Complainant, as discussed above.

Therefore, 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.

Considering that the Respondent has fraudulently pretended to be the Complainant, it is obvious that the Respondent was aware of the Complainant or its trademark when registering the disputed domain names. Therefore, the Panel is of the opinion that the Respondent is intentionally attempting to opportunistically attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's famous MASTERCONTROL mark as to the source, sponsorship, affiliation, or endorsement of the disputed domain names.

The Panel has found that the Respondent has used the disputed domain names in an attempt to fraudulently obtain funds for the benefit of the Respondent, the Respondent has not responded to the Complaint, the Respondent has used a privacy service to conceal its identity, there are no obvious good faith or legitimate uses to which the disputed domain names may be put, the Panel considers, on balance, that the disputed domain names have been registered and is used in bad faith.

Previous UDRP panels have held that the use of a domain name for purposes such as sending email, phishing, identity theft, or to send deceptive emails, *e.g.*, to obtain sensitive or confidential personal information to solicit payment of fraudulent invoices by the complainant's actual or prospective customers is evidence of registration and use of the domain name in bad faith (WIPO Overview of 3.0, section 3.4).

The Respondent failed to submit a Response, provide any evidence of good-faith use, or to show rights or legitimate interests in the disputed domain name.

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 names <mastarcontrol.com> and <mastrecontrol.com> be transferred to the Complainant.

*/Ganna Prokhorova/*

**Ganna Prokhorova**

Sole Panelist

Date: April 2, 2024