

ADMINISTRATIVE PANEL DECISION

Monster Energy Company v. kamsi izuogu
Case No. D2024-0831

1. The Parties

Complainant is Monster Energy Company, United States of America (“United States”), represented by Knobbe, Martens, Olson & Bear, LLP, United States.

Respondent is kamsi izuogu, United States.

2. The Domain Name and Registrar

The disputed domain name <monsterenergy.cam> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 24, 2024. On February 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 26, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to Complainant on February 28, 2024, providing the registrant and contact information disclosed by the Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed amended Complaint on March 2, 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 Respondent of the Complaint, and the proceedings commenced on March 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 25, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 3, 2024.

The Center appointed Jeffrey D. Steinhardt as the sole panelist in this matter on April 9, 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

Complainant is a global beverage manufacturing and distribution company, with billions of dollars in annual sales revenue. Complainant engages in prominent and extensive marketing efforts and regularly sponsors international sports and racing events which enjoy widespread media coverage.

Complainant's MONSTER ENERGY trademark is well-known in the United States and many nations worldwide. Complainant owns a very large number of registrations for its MONSTER ENERGY and related family of marks in the United States and globally, including, for example: United States Trademark Registration No. 6679809 registered in International Class 41 (including sporting events and entertainment services) on March 22, 2022; United States Trademark Registration No. 5820689, registered in International Class 9 (including video recordings of sports events and video game software) on July 30, 2019.

The disputed domain name was registered on February 5, 2024. The disputed domain name currently resolves to a parking page displaying third party advertising and also pay-per-click ("PPC") links directing Internet users to "energy" drinks marketed by third parties in competition with Complainant's business.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

With respect to its family of trademarks, Complainant refers to many UDRP decisions finding Complainant's MONSTER ENERGY trademarks to be well-known or internationally famous. E.g., *Monster Energy Company v. David Czinczenheim*, WIPO Case No. [D2023-2285](#); *Monster Energy Company v. Monster Energy*, WIPO Case No. [D2023-3489](#); *Monster Energy Company v. Christopher Martin*, WIPO Case No. [D2023-2561](#).

Complainant avers that in 2022 it earned more than 7 billion USD in adjusted global revenues. It also avers that Complainant devotes many millions of USD annually to its action sports and live event photography, and broadcasts live content extensively. Complainant alleges that Respondent's addition of the ".cam" Top-Level Domain ("TLD") to Complainant's MONSTER ENERGY mark therefore conveys to customers the misleading impression that the disputed domain name routes to a page specifically featuring Complainant's photography and imagery or a livestreaming site associated with Complainant.

Complainant further alleges that Respondent's passive holding of the disputed domain name should not, under the circumstances, preclude a finding of bad faith under the Policy.

B. Respondent

Respondent did not reply to 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 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.

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 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.

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.

The Panel agrees with Complainant that there is no indication that Respondent has been authorized to use Complainant's trademarks and that Respondent is not commonly known by the disputed domain name as provided under Policy Paragraph 4(c).

The record shows that the disputed domain name routes Internet users to webpages displaying third-party advertising and PPC links directing users to third-party commercial products in competition with products offered by Complainant under its marks. The Panel finds that it is reasonable to conclude that Respondent is receiving revenue from the use of the advertising links, and the Panel therefore finds that there is no bona fide use.

In the circumstances of this case (including the use of a domain name which incorporates and is confusingly similar to Complainant's trademarks), the display of PPC advertising links on the website to which the disputed domain name routes also precludes the possibility that Respondent is making a legitimate noncommercial or fair use. E.g., [WIPO Overview 3.0](#), section 2.9.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name.

Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

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.

Respondent's choice of the disputed domain name, which completely incorporates Complainant's MONSTER ENERGY marks, makes clear that Respondent knew of Complainant and targeted Complainant's well-known and long-established trademarks and business. Moreover, Respondent chose to register the disputed domain name under the ".cam" TLD, which is generally associated with photography, entertainment and video. The Panel finds that Respondent's choice of TLD increases the already substantial likelihood of confusion for Internet users, given Complainant's popular livestreaming video and media presence through which Complainant promotes and uses its MONSTER ENERGY marks.

Respondent sought to exploit Complainant's trademarks through registration of the confusingly similar disputed domain name. The Panel holds therefore that Respondent registered and is using the disputed domain name in bad faith, intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant's mark. See Policy, paragraph 4(b)(iv); [WIPO Overview 3.0](#), section 3.2.1.

Respondent's failure to respond to the Complaint in these proceedings is further evidence of bad faith. E.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); [WIPO Overview 3.0](#), sections 3.3, 3.4 and 3.2.1.

The Panel finds that Complainant has established the third element of Policy paragraph 4(a).¹

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 <monsterenergy.cam> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: April 16, 2024

¹When the Panel viewed the webpage to which the disputed domain name resolves, as described above, it displayed advertising and PPC links to third-party websites. In light of this and the fact that ample other circumstances support the Panel's ruling on bad faith, it is unnecessary to address Complainant's allegations related to passive holding by Respondent.