

Decision for dispute CAC-UDRP-105223

Case number	CAC-UDRP-105223
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Time of filing	2023-02-24 09:12:50
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Domain names	MACMILLANACQUISITIONDEPARTMENT.COM
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Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	Macmillan Publishers International Ltd
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Complainant representative

Organization	Stobbs IP Ltd
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Respondent

Name	Danielle Moore
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the trademark MACMILLAN which is registered as a word mark for its products and services in numerous countries all over the world, including in the United Kingdom, such as:

- UK word mark MACMILLAN, registered on 12 October 1978, under number UK00001102865;
- UK word mark MACMILLAN, registered on 12 October 1978, under number UK00001102866;
- UK word mark MACMILLAN, registered on 12 October 1978, under number UK00001102867.

FACTUAL BACKGROUND

According to the Complainant, Macmillan Publishers International is a private limited company incorporated in the United Kingdom, which is part of the Macmillan group of publishing companies. The Complainant operates in over 70 countries, with imprints in the United States, Germany, the United Kingdom, Australia, South Africa and India. In the UK, the Complainant trades under the 'Pan Macmillan' name.

The Complainant states that it extensively promotes its products and services under its MACMILLAN trademark through various methods including catalogues, book covers and websites. The Complainant demonstrates that it has consistently won prizes and awards and that, consequently, the Complainant has built a significant reputation and goodwill in its MACMILLAN brand and trademark

in relation to a wide range of goods and services.

The disputed domain name <macmillanacquisitiondepartment.com> was registered on 9 December 2022.

PARTIES CONTENTIONS

Complainant's contentions are summarised below.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. **The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has right**

According to the Complainant, the disputed domain name incorporates in full the Complainant's trademark MACMILLAN, with the addition of the descriptive terms 'acquisition' and 'department'. Past panels have held that the addition of generic, descriptive and/or geographic terms does not dispel confusing similarity (*AB Electrolux v. Handi Sofian, Service Electrolux Lampung* (WIPO Case No. D2016-2416) and *National Association for Stock Car Auto Racing, Inc. v. Racing Connection/The Racin' Connection, Inc.* (WIPO Case No. D2007-1524)).

The generic Top-Level Domain extension of the disputed domain name, in this case ".com", is typically disregarded under the confusing similarity test, as it is a standard requirement for registration.

Therefore, the Complainant concludes, and the Panel agrees, that the disputed domain name is confusingly similar to the Complainant's trademark.

2. **The Respondent has no rights or legitimate interests in respect of the disputed domain name**

The Complainant states that the Complainant has not granted authorization or license to the Respondent to use its MACMILLAN trademark and that, therefore, the Respondent has no rights in respect of the MACMILLAN term. The Complainant asserts that there is no business or legal relationship between the Complainant and the Respondent.

The Complainant further demonstrates that the disputed domain name does not resolve to an active website.

Moreover, the Complainant contends that the Respondent has registered and used the disputed domain name with the intent to perpetrate a phishing scheme. The Complainant demonstrates that the Respondent has used the disputed domain name to send malicious e-mails with the intent of acquiring financial and other sensitive non-public data on behalf of, or in association with, the Complainant. The Respondent's use of the domain name can therefore not be considered as a bona fide offering of goods or services nor as a legitimate non-commercial or fair use of the disputed domain name.

Furthermore, the Complainant asserts that, its extensive history and significant reputation in the publishing industry since as early as 1843 and the registration of the distinctive mark MACMILLAN within the disputed domain name, leads the Complainant to conclude that the only reason that the Respondent registered the disputed domain name was to take advantage of the Complainant's goodwill and valuable reputation.

The Panel finds that the Complainant has shown that the Respondent has not made legitimate use of the disputed domain name for a *bona fide* offering of goods or services. In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the domain name.

3. **The disputed domain name is registered and is being used in bad faith**

The Complainant states that the Complainant enjoys an extensive reputation within the publishing industry in which its MACMILLAN brand and trademark are well-known.

The Complainant asserts that its MACMILLAN trademark has been continually and extensively used and marketed, such that the services and products of the Complainant under its MACMILLAN trademark have gained recognition for their style and quality. According to the Complainant, a simple check on any of the most commonly used internet search engines would have revealed the MACMILLAN brand and trademark. The Complainant therefore believes that the Respondent was aware of the Complainant's rights in the MACMILLAN trademark and the value thereof when the disputed domain name was registered.

Moreover, the Complainant contends that it is clear that the Respondent is using the disputed domain name for the sole purpose of carrying out fraudulent activity, including phishing. Past panels have held that phishing constitutes bad faith (WIPO Case No. D2006-0614).

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **MACMILLANACQUISITIONDEPARTMENT.COM**: Transferred

PANELLISTS

Name	Tom Heremans
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DATE OF PANEL DECISION 2023-03-30

Publish the Decision