



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2401936
Complainant:	Beijing Pop Mart Cultural Creative Corp. Ltd.
Respondent:	Charbel Bulos
Disputed Domain Name(s):	<popmartmx.com>

1. The Parties and Contested Domain Name

The Complainant is Beijing Pop Mart Cultural Creative Corp., Ltd. of 132901 Unit 3, F25 Building 3 Courtyard 1, Futong East Street Chaoyang District, Beijing, China.

The Respondent is Charbel Bulos, of Gral. Ignacio Mejia, Pachuca de Soto, 42060, AG, MX.

The domain name at issue is <popmartmx.com>, registered by Respondent with TUCOWS, Inc., of 96 Mowat Avenue, Toronto, ON M6K 3M1, Canada.

2. Procedural History

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre (the “Center”) on October 16, 2024. On October 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification for the Domain Name. On October 21, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on October 21, 2024 providing the registrant and contact information disclosed by the Registrar and inviting the Complainant to submit an amendment to the Complaint. On October 22, 2024, the Complainant submitted the amended Complaint.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy effective from August 21, 2023 (the “Supplemental Rules”).

Under Paragraphs 2 and 4 of the Rules, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 22, 2024. Under Paragraph 5 of

the Rules, the due date for filing a Response by the Respondent was November 11, 2024. The Respondent submitted no response by this deadline date.

The Center appointed Olga Zalomiya as the sole panelist in this matter on November 12, 2024. The Panel finds 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.

3. Factual background

The Complainant is a Chinese character-based entertainment company specializing in designer toys and collectible art figures that operates under the POP MART mark. The Complainant owns numerous registrations for its POP MART trademark, such as:

- the U.S. trademark registration No. 6592820 for the POP MART trademark, registered on December 21, 2021;
- the International trademark registration No. 1528527 for the POP MART trademark, registered on March 9, 2020.

The Respondent registered the Domain Name on August 24, 2024. The Domain Name directs to a website in Spanish, which prominently displays the Complainant's POP MART trademark. The website offers for sale toys manufactured by the Complainant.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Complainant argues that the Domain Name is confusingly similar to its POP MART trademark because it incorporates the POP MART mark in its entirety. The Complainant claims that adding the geographical term "mx" does not diminish the likelihood of confusion. Furthermore, the Complainant asserts that the inclusion of the generic Top-Level Domain ("gTLD") ".com" is a standard component of domain name registration and, therefore, is not considered in the analysis of confusing similarity.
- ii. The Complainant alleges that the Respondent has no rights or legitimate interests in the Domain Name as the Complainant has neither authorized, nor permitted the Respondent to use the POP MART trademark. Furthermore, the Respondent has no business relationship with the Complainant. The Complainant argues that the Respondent is not commonly known by the Domain Name, as his name is Charbel Bulos, and claims that the Respondent holds no other rights to the POP MART mark.
- iii. The Complainant alleges that the Respondent registered the Domain Name in bad faith because it registered the Domain Name with the knowledge of the Complainant's trademark and the Complainant's business. The Complainant contends that the Respondent is using the Domain Name in bad faith because the Domain Name directs to a website that is identical to the content of the Complainant's website. The Complainant argues that the Respondent used the

Domain name to intentionally attract, for commercial gain, Internet users to his website, by creative a likelihood of confusion with the Complainant's mark.

B. Respondent

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

5. Findings

It is a consensus view among UDRP panelists that “[a] respondent's default does not automatically result in a decision in favor of the complainant... [T]he complainant must establish each of the three elements required by paragraph 4(a) of the UDRP.”¹ A panel may draw inferences from a respondent's default.²

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

To satisfy the first UDRP element, a domain name must be “identical or confusingly similar” to a trademark, in which a complainant has rights.

The Complainant has established its rights to the POP MART trademark by submitting copies of POP MART trademark registrations. Pursuant to section 1.2.1 of the WIPO Overview 3.0, “[w]here the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case”. Therefore, the Complainant satisfied the UDRP standing requirement.

The Domain Name consists of the Complainant's POP MART trademark, the geographical indication “mx”³ and the gTLD “.com”. “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”⁴ It is well-established, that the applicable gTLD should be disregarded under the confusingly similarity test as a standard registration requirement.⁵

Because the Complainant's POP MART trademark is recognizable within the Domain Name, the inclusion of the geographic term “mx” does not detract from confusing

¹ Paragraph 4.2., WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”)

² Paragraph 4.3., WIPO Overview 3.0.

³ MX stands for MEXICO.

⁴ Section 1.8., WIPO Overview 3.0.

⁵ Section 1.11.1, WIPO Overview 3.0.

similarity. Since gTLD “.com” is disregarded from the assessment, the Domain Name is confusingly similar to the Complainant’s POP MART trademark.

Thus, the first element of the UDRP has been satisfied.

B) Rights and Legitimate Interests

Under the second UDRP element, a complainant must make a *prima facie* case in respect of the lack of rights or legitimate interests of the respondent⁶. Once the complainant has made out the *prima facie* case, the respondent carries the burden of producing evidence demonstrating it has rights or legitimate interests in the domain name⁷. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP.⁸

Pursuant to paragraph 4(c) of the UDRP, the following may demonstrate rights or legitimate interests in the Domain Name:

(i) before any notice of the dispute, the respondent’s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel finds that the Complainant has made out *prima facie* case in respect of the lack of rights or legitimate interests of the Respondent. First, the Complainant has not authorized or licensed the Respondent to use the Complainant’s POP MART trademarks in any manner.

Second, the Respondent is not commonly known by the Domain Name, which supports finding of a lack of rights or legitimate interests.

Third, the Respondent’s unauthorized use of the Complainant’s POP MART trademark in connection with a website designed to look like a website relates to the Complainant’s business does not amount to noncommercial use of the Domain Name.

Fourth, the Respondent’s use of the Domain Name is not fair, because “it falsely suggests affiliation with the trademark owner”.⁹ The nature of the Domain Name itself suggests affiliation between the Complainant and the Respondent because the Domain Name, which contains the Complainant’s POP MART trademark and the descriptive terms “mx” directs to the website that offers for sale toys manufactured by the Complainant. Finally, the

⁶ Section 2.1, WIPO Overview 3.0.

⁷ *Id.*

⁸ *Id.*

⁹ Section 2.5.1, WIPO Overview 3.0.

Respondent's website contains no disclaimer of its relationship or lack thereof with the Complainant.

Since the Respondent has failed to rebut the Complainant's case, the Panel holds that the second element of the UDRP has been satisfied.

C) 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.

The Panel notes that the Respondent registered the Domain Name that incorporates the Complainant's POP MART trademark and includes a geographically descriptive term "mx" that directs to a website designed to look like a Complainant's website. The Respondent's lack of rights or legitimate interests in the Domain Name, coupled with the absence of a credible explanation for the Respondent's choice of the Domain Name indicate that the Domain Name was registered in bad faith.

The UDRP establishes that, for purposes of paragraph 4(a)(iii), "bad faith" registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to source, sponsorship, affiliation or endorsement of the respondent's website or location, or of a product or service on the respondent's website or location. See Policy, paragraph 4(b)(iv).

Prior UDRP panels have found "the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent's commercial benefit, even if unsuccessful, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name, (vi) absence of any conceivable good faith use."¹⁰

Here, the Respondent who has no rights to or legitimate interests in the Domain Name, registered the Domain Name that incorporates the Complainant's trademark and a geographic term to direct to an online store selling the Complainant's goods. Therefore, the Panel concludes that the Respondent registered and is using the Domain Name to intentionally attempt to attract, for commercial gain, the Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website or location, or of a product or service on the Respondent's website or location.

The Panel finds that the Complainant has established the third element of the Policy.

¹⁰ Section 3.1.4, WIPO Overview, 3.0.

6. Decision

Under paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <popmartmx.com> be transferred to the Complainant.


Olga Zalomiy
Sole Panelist

Dated: November 20, 2024