

## **ADMINISTRATIVE PANEL DECISION**

DTTM Operations LLC v. Marq Quarius, 1 LLC  
Case No. D2023-4147

### **1. The Parties**

The Complainant is DTTM Operations LLC, United States of America (“United States”), represented by 500law, United States.

The Respondent is Marq Quarius, 1 LLC, United States.

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

The disputed domain name <mar-a-lago.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 4, 2023. On October 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 5, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2023. The Response was filed with the Center on October 30, 2023.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on November 14, 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 is a limited liability company organized under the law of the State of Delaware, United States, and headquartered in New York, New York, United States. According to the Declaration of Alan Garten, Executive Vice President and Chief Legal Officer of The Trump Organization and its affiliates, the Complainant is an affiliate of The Trump Organization that owns and controls trademarks on behalf of the group. These include United States trademark registrations originally procured by Donald J. Trump, “an American real estate developer, businessman, media personality and politician who served as the 45th President of the United States from 2017 to 2021, and is a well-known and/or famous figure.”

“In or about 1985” Donald J. Trump purchased the “Mar-a-Lago” luxury property in Palm Beach, Florida. This had been built in the 1920s as the home of heiress and businesswoman Marjorie Merriweather Post, and it is registered as a National Historic Landmark. Mr. Trump used the home as a private residence until 1995 but began building an exclusive “Mar-a-Lago Club” at the site, ultimately opening a golf course, beach club, spa, guest suites, dining, boutique, and catered events to members and guests. The Club is advertised in print and online at “www.marlagoclub.com” (the “Complainant’s website”). According to the Whois database, that domain name was created on May 6, 1997. The “History” page of the Complainant’s website recounts that “[i]n April of 1995, Mar-a-Lago became established as The Mar-a-Lago Club.”

The Complainant holds United States trademark registration number 2056829, registered on April 29, 1997, for THE MAR-A-LAGO CLUB as a word mark in International Class 041 for entertainment services, claiming first use in commerce in May 1994, as well as United States registration number 3719397, registered on December 1, 2009, for MAR-A-LAGO as a word mark in International Classes 016 (pictures and pens) and 021 (wastepaper baskets, candle holders, etc.), claiming first use in commerce in June 2008. Both of these marks were registered by Mr. Trump and subsequently assigned to the Complainant.

The record includes evidence of promotional materials and print advertising displaying the MAR-A-LAGO marks (from 2017) and industry recognition of the Mar-a-Lago Club, as well as screenshots of the Complainant’s website.

The Registrar reports that the disputed domain name was created on March 28, 1997, and is registered to the Respondent Marq Quarius of the organization 1 LLC, with a postal address in Florida, United States and a Gmail contact email address. According to the online database of the Florida Division of Corporations, 1 LLC is an inactive Florida limited liability company of which the Respondent Marq Quarius was the authorized member and authorized representative. The Response identifies Mr. Quarius as the “sole owner” of the disputed domain name, and he will be referred to as the “Respondent” hereafter in the Decision.

The disputed domain name redirects to a website headed “A Dreamer” (the “Dreamer website”) at “www.c13.org”. The Dreamer website depicts the Earth as seen from space and presents a prose “Ode to Earth” and numerous quotations “from around the world”, accompanied by images and short videos. The website includes a feature allowing users to submit “a quote that inspires”. There is no text claiming copyright or otherwise identifying the website operator. A block of text toward the bottom of the home page describes the Dreamer website as follows:

“This is a PRIVATE website.

If you stumbled upon it, may it make you think, dream, wonder, and react to be a better you.

I dedicate this private website to my Mother who was selfless, kind, and would say, all life as precious.

She appreciated Earth’s stunning beauty, it’s diversity of life and uniqueness in our Galaxy.

She often told me Earth is Humanity’s Spaceship. The Jewel of the Galaxy.

ADreamer.com was registered through Network Solutions in 1996.

ADREAMER.COM WILL -NEVER- ASK FOR MONEY.

If you submit words of or quote that inspires you and If accepted please allow up to 4 weeks.

For the betterment of humanity.”

A photo follows of a woman “with first grandson”.

There is no reference to the Complainant or the Complainant’s mark on the Dreamer website.

The domain name <adreamer.com> redirects to the same website. As stated in the website text, this domain name was registered in 1996, according to the Whois database. The domain name <c13.org> was registered in January 2014.

## **5. Parties’ Contentions**

### **A. Complainant**

The Complainant asserts that the disputed domain name is identical or confusingly similar to its registered trademarks MAR-A-LAGO and THE MAR-A-LAGO CLUB. The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, as it is not known by a corresponding name and is not using the disputed domain name in connection with a *bona fide* commercial offering or a legitimate fair use relevant to the name.

Instead, the Complainant argues, the Respondent is creating confusion as to affiliation with the Complainant’s well-known marks, incorporating the MAR-A-LAGO mark in its entirety, “to prevent the Complainant from reflecting the mark in a corresponding domain name, and to attract Internet users to Respondent’s website”. Thus, “it is evident that Respondent has registered and maintains the disputed domain name in bad faith with an intent to cause confusion, for commercial gain, and to deprive Complainant of using its famous trademarks as domain name to promote his business.”

### **B. Respondent**

The Respondent asserts that the phrase “mar-a-lago”, which is Spanish for “sea to lake” (or lagoon), is used to refer to many places across the globe and not exclusively to the Complainant’s club in Palm Beach, Florida. It is used, with or without hyphens, for a homeowners’ association and a manufactured home community, both in Florida, and for condominiums in Las Vegas, Nevada. Thus, there is not necessarily an association with the Complainant.

The Respondent states that he has never used the disputed domain name for its “traditional meaning”. He says that he registered the disputed domain name in March 1997, before the Complainant was using a similar domain name, after three family pets died, at his mother’s suggestion. “Mar” was a dog named in short after the Respondent’s first name, Marq. “A” represented “Alfred,” a duck that frequented the pond behind their home, named after Alfred Hitchcock. “Lago” was a nickname for “Lag”, a slow cat the family had rescued. The website became a “pet memorial”, where others could also post pictures and names of their deceased pets, free of charge. The Response attaches screenshots of the original home page of the website with the photos of “Mar”, “A”, and “Lago”, as well as of the subsequent “Mar-A-Lago Pet Memorials” website, with photos of the Respondent’s family as well as of other people’s deceased pets. The website invited visitors to post tributes to their own departed pets “free of charge”, although it also encouraged users to contribute USD 25 (“only if you can afford it”) as a “one time processing, programming and website building fee”. The Panel notes that similar screenshots associated with the disputed domain name, dating from April 2000 onward, are found on the Internet Archive’s Wayback Machine.

The Respondent reports that while the Complainant's predecessor Mr. Trump did not register MAR-A-LAGO as a trademark until 2009, Mr. Trump attempted to take the disputed domain name from the Respondent on two occasions before this proceeding. A July 9, 1998, cease-and-desist letter from counsel for Mr. Trump is attached to the Response. The letter referred to the Respondent operating websites associated with the domain names <mar-a-lago.com> and <maralago.com> (the Respondent states that he no longer owns the latter domain name) and argued that this "unauthorized use of the MAR A LAGO trademark" was likely to diminish or dilute Mr. Trump's mark and give a false impression of sponsorship, approval, or endorsement". The letter demanded transfer of both domain names. At the time, and contrary to the use of the "R" symbol on the letter from counsel, Mr. Trump did not have a trademark registration for MAR-A-LAGO but only for THE MAR-A-LAGO CLUB. The Respondent's counsel replied with a letter explaining the Respondent's proposed use of the two domain names for a public pet memorial site, how the name was derived, and why it was not likely to engender confusion with the registered mark THE MAR-A-LAGO CLUB. A letter from Mr. Trump's counsel dated September 10, 1998, indicates that the Respondent offered to transfer the domain names in exchange for Mr. Trump donating USD 25,000 to a charity selected by the Respondent. Counsel for Mr. Trump declined, stating, "[w]e will proceed to file a protest with Network Solutions ..." Screen captures from the Wayback Machine show that both domain names were subsequently used for the Respondent's pet memorial website.

Mr. Garten of The Trump Organization sent another cease-and-desist letter more than a decade later, on May 26, 2020, addressed to the "Registrant" of the disputed domain name. This letter cited both of the registered trademarks noted above and demanded transfer of the disputed domain name. The Respondent reports that the parties exchanged emails in which The Trump Organization offered to purchase the disputed domain name for the cost of the domain registration fees and the Respondent agreed, asking that this compensation be sent to a charity, the Performing Animal Welfare Society ("PAWS") in his mother's memory. The Respondent added a notice to the pet memorial website stating that it would be redirected to <foreverloved.net> (which now redirects to the Respondent's Dreamer website). However, the Respondent says that The Trump Organization did not follow through with the proposed domain name transfer arrangements, and he heard nothing further until the filing of this UDRP proceeding.

The Respondent denies any animosity toward The Trump Organization and states that the disputed domain name has never been used to post negative comments. The Respondent affirms that he has kept the disputed domain name in constant operation since registering it more than 25 years ago and has never attempted to sell it for a profit.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following: (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and (ii) the respondent has no rights or legitimate interests in respect of the domain name; and (iii) the domain name has been registered and is being used in bad faith. Under paragraph 15(a) of the Rules, "[a] Panel shall decide a 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".

### **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 registered MAR-A-LAGO mark is incorporated in its entirety in the disputed domain name, and the same string that constitutes a distinctive element of the registered mark THE CLUB AT MAR-A-LAGO is recognizable in the disputed domain name. See *id.*, section 1.7. Therefore, the Panel finds that the first element of the Complaint 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.

While 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 often impossible 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. 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 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 is not known by a corresponding name and has denied any commercial use of the disputed domain name or plans for such use. The Respondent claims a legitimate interest in noncommercial use of the disputed domain name, as he has done for many years. Where a disputed domain name contains dictionary words or phrases (as is the case here) which also correspond to a trademark, the Respondent may offer evidence supporting a credible and legitimate intent which does not capitalize on the reputation associated with the relevant mark. See [WIPO Overview 3.0](#), section 2.10.

The Respondent explains that he formed the disputed domain name from the nicknames of three recently deceased family pets. This might strain credulity, but there is evidence, if taken at face value, that the Respondent operated a website apparently dedicated to the memory of these particular animals, later expanding it to a pet memorial website for others as well. However, rights and legitimate interests are normally assessed at the time of the Policy proceeding ([WIPO Overview 3.0](#), section 2.11), and the Respondent’s pet memorial website was replaced some years ago with the Dreamer website. This does not appear to be relevant to the meaning of the disputed domain name, and the Respondent does not suggest that it is. Thus, if there once was an argument for rights or legitimate interests based on the acronym corresponding to pet names, it does not currently apply. The Panel concludes, therefore, that the Complainant prevails on the second element of the Complaint. The Panel addresses below, in connection with the issue of bad faith, whether the evidence supports the Respondent’s explanation for registering the disputed domain name or indicates instead an intent to exploit the Complainant’s mark.

## **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) gives circumstances that “shall” be deemed evidence of the registration and use of a domain name in bad faith, including two cited by the Complainant: preventing the Complainant from reflecting the mark in a corresponding domain name (“provided that you [the respondent] have engaged in a pattern of such conduct”), and creating “a likelihood of confusion” with the Complainant’s mark to attract Internet users to another site for “commercial gain”.

These examples are not squarely on point with the facts on this record. There is little evidence of a “pattern” of domain name registrations by the Respondent targeting the Complainant’s marks (there appear to be two, the disputed domain name and <marlago.com>, both registered before the Complainant registered or possibly established MAR-A-LAGO as a mark). And the Respondent’s pet memorial and Dreamer websites are arguably not designed for “commercial gain”. They do not appear to have published advertising or

promoted business activities, and both stated that they allowed postings “free of charge”, although the pet memorial website encouraged contributors to donate USD 25 to cover costs.

As the Complainant observes, however, these instances of bad faith in the Policy, paragraph 4(b) are expressly not exclusive, and the intentional misdirection of Internet users to the Respondent’s websites by creating a likelihood of confusion with the Respondent’s mark could still be deemed bad faith under the Policy. Under the Policy, the Complainant must establish the probability that the Respondent both registered and used the disputed domain name in bad faith. It is undisputed that the Respondent was the party that registered the disputed domain name on March 28, 1997, and has used it continuously since. The Complainant obtained trademark registration for THE MAR-A-LAGO CLUB a month later, on April 29, 1997, claiming first use in commerce in May 1994. However, despite the fact that this is an important aspect of this case, the Complaint does not include evidence of such early use to support common law rights before trademark registration (see [WIPO Overview 3.0](#), section 1.3 on proof of unregistered trademark rights). The “History” page of the Complainant’s website says that the Mar-a-Lago Club was established in April 1995. The Complainant’s website itself was not launched until shortly after the Respondent registered the disputed domain name. The MAR-A-LAGO mark, which directly corresponds to the disputed domain name, was not registered until much later, on December 1, 2009, claiming first use in commerce only in June 2008. Thus, only the mark THE MAR-A-LAGO CLUB is relevant at the time of the registration of the disputed domain name registration.

It is certainly possible that the Respondent, a Florida resident, was aware of the opening of Mr. Trump’s Mar-a-Lago Club, and the Respondent does not deny prior awareness of this event. Panels have found bad faith where persuasive evidence indicated that a disputed domain name was registered “in anticipation of” a subsequently registered trademark. See [WIPO Overview 3.0](#), section 3.82. The disputed domain name here does not refer directly to THE MAR-A-LAGO-CLUB, however, but is comprised of a shorter string of dictionary words, for which the Respondent offers an unusual but not altogether incredible explanation, given the actual use of the disputed domain name. Importantly, the Respondent has retained and used the disputed domain name for essentially noncommercial purposes for more than 25 years, without trying to sell it to the Complainant or third parties. Even when the Complainant tried to purchase it, the Respondent asked for the proceeds to be given to a charity. These facts are not consistent with typical cybersquatting behavior and lend credence to the Respondent’s account.

The Panel is aware that the account given by the Respondent as to his reason for having registered the disputed domain name may seem to be a stretch; to the extent this explanation could be fabricated and sought to mask an intent to cybersquat, ascertaining such fact would require detailed evidence and information – which, if it was already available, was not provided in the Complaint – such as may be obtained in litigation discovery or cross-examination and is beyond the purview of the Panel here.

The Panel does not find on this record that the Complainant has met its burden to establish bad faith in the registration of the disputed domain name in 1997, as an attack on a common law trademark or an anticipated registered trademark. Accordingly, the Panel concludes that the Complaint fails on the third element.

## 7. Decision

For the foregoing reasons, the Complaint is denied.

*/W. Scott Blackmer/*

**W. Scott Blackmer**

Sole Panelist

Date: November 24, 2023