

## Complaint Transmittal Cover Sheet

**To:** Tom Alciere (Respondent)  
**From:** Mothers Against Drunk Driving (Complainant)  
**Cc:** National Arbitration Forum  
**Date:** April 12, 2011  
**Re:** MADDCA.ORG; MADDFL.ORG; MADDNE.ORG;  
MADDNY.ORG; and MADDPENNSYLVANIA.ORG

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*The attached Complaint is being filed against you with the National Arbitration Forum (the "Forum") pursuant to the Uniform Domain Name Dispute Resolution Policy (the "Policy") adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN") on October 24, 1999 and incorporated in your Registration Agreement with the Registrar of your domain names. By submitting this Complaint to the Forum, the Complainant agrees to abide and be bound by the provisions of the Policy, the ICANN Rules, and the Forum's Supplemental Rules.*

**Until you are notified by the Forum that a proceeding has commenced, you have no duty to act with regard to this Complaint.**

- The Forum will examine the Complaint to determine whether it conforms to the ICANN Policy, Rules, and the Supplemental Rules.
- If the Complaint conforms to those standards, the Forum will forward an official copy of the Complaint to you.
- *Once the official Complaint is forwarded to you, you will have **twenty (20)** calendar days to submit a Response to both the Forum and the Complainant in accordance with the Policy, Rules, and Supplemental Rules.*
- You may seek legal assistance to represent you in this administrative proceeding.

*The Policy and Rules governing this proceeding can be found at:*

ICANN UDRP Policy	<a href="http://www.icann.org/udrp/udrp-policy-24oct99.htm">http://www.icann.org/udrp/udrp-policy-24oct99.htm</a>
ICANN UDRP Rules	<a href="http://www.icann.org/en/dndr/udrp/uniform-rules.htm">http://www.icann.org/en/dndr/udrp/uniform-rules.htm</a>
Forum Supplemental Rules	<a href="http://domains.adrforum.com/resource.aspx?id=1540">http://domains.adrforum.com/resource.aspx?id=1540</a>

Alternatively, you may contact the Forum to obtain any of the above documents.

Telephone: (800) 474-2371 or (952) 516-6400  
E-mail: [domaindispute@adrforum.com](mailto:domaindispute@adrforum.com)

**Please provide the Forum with the email address where the official Complaint and other communications in the administrative proceeding should be sent.**



Mothers Against Drunk Driving )  
511 E. John Carpenter Freeway, )  
Suite 700 )  
Irving, Texas 75062 )  
)  
**(Complainant)** )  
)  
v. )  
)  
Tom Alciere )  
PO BOX 106 )  
Nashua, New Hampshire 03061 )  
)  
**(Respondent)** )  
\_\_\_\_\_ )

**Domain Names In Dispute:**  
MADDCA.ORG  
MADDFL.ORG  
MADDNE.ORG  
MADDNY.ORG  
MADDPENNSYLVANIA.ORG

**MOTHERS AGAINST DRUNK DRIVING’S COMPLAINT IN ACCORDANCE WITH  
THE UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY**

[1.] This Complaint is hereby submitted for decision in accordance with the Uniform Domain Name Dispute Resolution Policy (UDRP), adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999 and approved by ICANN on October 24, 1999, and the Rules for Uniform Domain Name Dispute Resolution Policy (UDRP Rules), with an effective date of March 1, 2010, and the National Arbitration Forum (FORUM) Supplemental Rules (Supp. Rules). UDRP Rule 3(b)(i).

**[2.] COMPLAINANT INFORMATION**

- [a.] Name: Mothers Against Drunk Driving
- [b.] Address: 511 East John Carpenter Freeway  
Suite 700  
Irving, Texas 75062
- [c.] Telephone: 469-420-4422
- [d.] Fax: 469-420-4509
- [e.] E-Mail: adam.vanek@madd.org

## COMPLAINANT'S AUTHORIZED REPRESENTATIVE

- [a.] Name: Herbert J. Hammond,  
Deborah L. Lively, and  
Justin S. Cohen
- [b.] Address: Thompson & Knight LLP  
1722 Routh Street, Suite 1500  
Dallas, Texas 75201
- [c.] Telephone: 214-969-1700
- [d.] Facsimile: 214-969-1751
- [e.] Email: Justin.Cohen@tklaw.com

UDRP Rule 3(b)(ii).

Complainant's preferred contact person for correspondence relating to this case:

- [a.] Contact Name(s): Justin S. Cohen
- [b.] Contact Emails(s): Justin.Cohen@tklaw.com

The Complainant chooses to have this dispute heard before **a single-member** administrative panel. ICANN Rule 3(b)(iv).

### [3.] RESPONDENT INFORMATION

- [a.] Name: Tom Alciere
- [b.] Address: PO BOX 106  
Nashua, New Hampshire 03061
- [c.] Telephone: (603) 821-1347
- [d.] Fax: Not Listed
- [e.] E-Mail: TomAlciere@TomAlciere.com

ICANN Rule 3(b)(v).

### [4.] DISPUTED DOMAIN NAME(S)

- [a.] The following domain names are the subject of this Complaint: ICANN Rule 3(b)(vi).

**MADDCA.ORG**  
**MADDFL.ORG**  
**MADDNE.ORG**  
**MADDNY.ORG**  
**MADDPENNSYLVANIA.ORG**

- [b.] Registrar Information: UDRP Rule 3(b)(vii).

- [i.] Registrar's Name: Misk.com, Inc.
- [ii.] Registrar Address: 1542 Route 52  
Fishkill, NY 12524 USA

- [iii.] Telephone Number: Not Listed
- [iv.] E-Mail Address: support@misk.com

[c.] Trademark/Service Mark Information: ICANN Rule 3(b)(viii).

Mothers Against Drunk Driving (“MADD” or “Complainant”) is a non-profit organization that has been devoted stopping drunk driving, supporting victims of this violent crime, and preventing underage drinking for more than 30 years. Since its founding in 1980, MADD has grown to one of the largest crime victims organizations in the world.

MADD is the owner of numerous marks that are registered on the Principal Register of the United States Patent and Trademark Office (“USPTO”). Specifically, MADD has used the MADD mark since its inception in 1980. The MADD mark was registered on September 6, 1983 (Reg. No. 1,250,706). See Exhibit A. MADD has also registered numerous other marks with the USPTO that incorporate the term “MADD.” A list of these MADD registrations is attached as Exhibit B. In addition to these U.S. registrations, MADD has registered other marks incorporating the term MADD in multiple countries throughout the world. A list of these MADD registrations is attached as Exhibit C. Collectively, the “MADD Marks.”

The MADD mark is and has been widely publicized and is still highly recognized. MADD has more than 600 chapters across the United States and more than two million members. MADD often refers to local and regional groups as “chapters” and specifically refers to MADD chapters by a particular geographic area.

MADD is one of the most well known non-profit organizations in the country, and its MADD mark is one of the most highly recognized trademarks among non-profit organizations. In 2000, a Gallup survey found that 97% of those questioned recognized the MADD name and MADD was cited by 77% of respondents when asked to identify a public group working to stop drunk driving. In 2001, MADD was named one of *Worth* magazine’s Top 100 charities.

MADD first used its MADD mark at least as early as September 5, 1980 for “association services, namely, promoting the interests of individuals opposed to drunk driving.” This mark has been continuously used in the United States, Canada, Mexico, and globally through the Internet at [www.madd.org](http://www.madd.org) (the “MADD Website”) and through other advertising and promotional efforts. Furthermore, MADD has expanded its use of the MADD mark to include numerous other marks that incorporate the term “MADD” and cover a variety of services and goods. See Exhibits B and C.

MADD has worked continuously to combat drunk driving since its inception in 1980. MADD has been active in lobbying efforts on the national, state, and local levels. Past presidents of MADD have repeatedly been asked to testify before Congress and have taken part in numerous press conferences with high-ranking governmental officials that are publicized on both a national and international level. In 1982 President Reagan invited MADD to serve on a Presidential Task Force on drunk driving. In 1983 NBC produced a made-for-television movie about MADD and its founder. MADD has done

direct mail campaigns, established hotlines to aid victims of drunk driving, sponsored panels and conferences, testified on Capitol Hill, nationally televised a program called “Hollywood Gets MADD” with Siskel & Ebert, published DRIVEN and MADDVOCATE magazines, launched programs in schools to educate about the dangers of drinking and driving, and established an on-line presence through the MADD Website.

MADD has invested substantial effort and expense in developing a vast amount of goodwill in the MADD Marks and to cause individuals throughout the United States and the rest of the world to recognize the MADD Marks as distinctly designating its services and goods. Over thirty years of promotional efforts, as well as the continuous and exclusive use the MADD mark, and the subsequent use of the MADD Marks, have made the MADD Marks distinctive as well as famous.

In addition, MADD’s official website (www.madd.org) provides a source of not only advertising and exposure, but also fundraising efforts to individuals worldwide. MADD registered the domain name www.madd.org on April 22, 1996. It has operated a website at this domain for almost fifteen years. A copy of the “whois” record is attached as Exhibit D. Complainant uses many of the MADD Marks at its MADD Website. Print outs from the MADD Website promoting its services and goods are attached as Exhibit E.

[5.] **FACTUAL AND LEGAL GROUNDS**

This Complaint is based on the following factual and legal grounds: UDRP Rule 3(b)(ix).

[a.] **RESPONDENT’S DOMAIN NAMES ARE CONFUSINGLY SIMILAR TO COMPLAINANT’S MARK:** UDRP Rule 3(b)(ix)(1); UDRP Policy ¶ 4(a)(i).

Respondent’s domain names are confusingly similar to MADD’s distinctive and famous MADD mark. Respondent’s domain name incorporates the entire federally registered and famous MADD mark, and merely adds a geographic identifier. In fact, MADD is the dominant portion of each domain name. *See Oki Data Ams., Inc. v. ASD, Inc.*, D2001-0903 (WIPO Nov. 6, 2001) (“[T]he fact that a domain name wholly incorporates a Complainant’s registered mark is sufficient to establish identity [sic] or confusing similarity for purposes of the Policy despite the addition of other words to such marks”); and *Disney Enterprises, Inc. v. McSherry*, FA 154589 (Nat. Arb. Forum Jun. 17, 2003) (finding <disneyvacationvillas.com> domain name to be confusingly similar to the complainant’s DISNEY mark because it incorporated the complainant’s entire mark and merely added two additional terms).

Each of Respondent’s domain names comprises nothing more than MADD’s mark with an additional geographic identifier denoting a state (e.g., CA, FL, NE, NY, and PENNSYLVANIA). Notably, the addition of a geographic indicator will not negate a finding of confusing similarity between Complainant’s mark and a domain name. *See, e.g. United Parcel Service of America, Inc. v. United Parcel Service UK*, FA 1026907 (Nat. Arb. Forum August 9, 2007) (“Respondent’s <uk-ups.com> domain name simply adds the geographic term “uk” along with a hyphen to Complainant’s mark and appends

the mark with the generic top-level domain (“gTLD”) “.com.” These additions to Complainant’s UPS mark are insufficient to create a new, distinct mark.”); *SPTC, Inc, and Sotheby's v. Juliana*, FA 1000082 (Nat. Arb. Forum July 17, 2007) (“the addition of the geographic indicator “Korea” does not negate a finding of confusing similarity under Policy ¶ 4(a)(i)”); and *Net2phone Inc. v. Netcall SAGL*, D2000-0666 (WIPO Sept. 26, 2000) (finding that the respondent’s domain name <net2phone-europe.com> is confusingly similar to the complainant’s mark because “the combination of a geographic term with the mark does not prevent a domain name from being found confusingly similar”).

Finally, Respondent’s domain names even use the same generic top-level domain (“gTLD”) “.org” as Complainant’s MADD.ORG website.

Complainant has priority rights in the MADD Marks because the MADD Marks have been in use before Respondent registered the domain names at issue, which were registered in June 2007 and December 2009. See Exhibit F. In fact, Complainant’s MADD mark (U.S. Reg. No. 1,250,706) was in use for over twenty-five years and had become famous prior to Respondent’s registration of the domain names at issue.

Therefore, given the fact that Respondent incorporates the entire MADD mark into each domain name at issue, and merely adds a geographic indicator, Respondent’s domain names are confusingly similar if not identical to Complainant’s MADD Marks

[b.] **RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN THE DOMAIN NAME:** ICANN Rule 3(b)(ix)(2); ICANN Policy ¶ 4(a)(ii).

Respondent has no rights or legitimate interest in any of the domain names at issue. Respondent is an individual named TOM ALCIERE and is not commonly known as any of Complainant’s MADD Marks. See Exhibit F. Respondent lives in New Hampshire and has no connection to any of the geographic regions used in the domain names at issue (i.e., CA, FL, NE, NY, or PENNSYLVANIA). See Exhibit F.

Complainant has never granted Respondent permission to use the MADD Marks or any similar names or marks. Respondent is in no way affiliated with Complainant and Respondent does not promote Complainant’s services or goods. Thus, Respondent also does not meet the requirements of Policy ¶¶ 4(c)(i) or 4(c)(ii).

Furthermore, Respondent is not making any legitimate non-commercial or fair use of the disputed domain names and therefore does not meet the requirements of Policy ¶ 4(c)(iii). Respondent’s websites are complaint sites criticizing MADD and its activities. See Exhibit G. Respondent is entitled to exercise his right of free speech, but is not entitled to mislead Internet users by using Complainant’s famous MADD mark. See *Name.Space Inc. v. Network Solutions, Inc.*, 202 F.3d 573, 585 (2d Cir. 2000) (finding that although the content of the respondent’s site may be entitled to First Amendment protection, the respondent’s use of the complainant’s trademark in the domain name of its site is not protected); and *E. & J. Gallo Winery v. Hanna Law Firm*, D2000-0615 (WIPO Aug. 3, 2000) (finding that establishing a legitimate free speech/complaint site does not

give rights to use a famous mark in its entirety); *see also Compagnie Generale des Matieres Nucleaires v. Greenpeace Int'l*, D2001-0376 (WIPO May 14, 2001) (holding that the respondent's showing that it "has a right to free speech and a legitimate interest in criticizing the activities of organizations like the Complainant . . . is a very different thing from having a right or legitimate interest in respect of [a domain name that is identical to Complainant's mark]").

Further, Respondent's domain names create a false association with MADD and generate initial confusion by tricking Internet users into visiting Respondent's websites. *See Covance, Inc. and Covance Laboratories Ltd. v. The Covance Campaign*, D2004-0206 (WIPO Apr. 30, 2004) (finding that a domain name which is identical to the Complainant's trademark does not qualify as a "legitimate noncommercial or fair use" under paragraph 4(c)(iii) regardless of website content because there is an immediate potential for false association with the trade mark owner and a degree of initial confusion); and *Direct Line Group Ltd. v. Purge I.T.*, D2000-0583, (WIPO Aug. 13, 2000) (finding that use of the complainant's name and adoption of it in a domain name is inherently likely to lead some people to believe that the complainant's are connected with it).

Respondent is not affiliated or sponsored by MADD and has no legitimate interest in using the MADD mark. Furthermore, Respondent is not making any legitimate non-commercial or fair use of the disputed domains. Therefore, for at least these reasons, Respondent has no right or legitimate interest in the domain names at issue.

[c.] **RESPONDENT REGISTERED AND USES THE DOMAIN NAMES IN BAD FAITH: ICANN Rule 3(b)(ix)(3); ICANN Policy ¶ 4(a)(iii).**

Respondent registered and is using the domain names at issue in bad faith. Complainant has been using the MADD mark since at least as early as 1980 in association with its services and products and has acquired a great amount of fame in the MADD Marks, and particularly in the MADD mark. MADD registered the domain name <MADD.ORG> in 1996, over ten years before Respondent registered any of the domain names at issue.

All of the domain names at issue host websites used to criticize and disrupt MADD's activities. Respondent registered <STOPTHEMADNESS.ORG> in 2005 for this same purpose - to criticize and disrupt MADD's activities. See Exhibits H and I. Years later in 2007 and 2009, Respondent registered the domain names at issue in order to mislead consumers to the same information critical of MADD's activities. See Exhibit F.

Incorporating the famous MADD mark in the domain names at issue in order to run a criticism website is evidence of bad faith registration and use. See *Gregory A. Stainer v. ITWEB Domain Protection*, FA 1140783 (Nat. Arb. Forum March 20, 2008) ("Respondent's use of a disputed domain name that is identical to Complainant's mark in order to operate a criticism website is evidence of bad faith registration and use pursuant to Policy ¶ 4(a)(iii)."); *see also Diners Club Int'l, Ltd. v. Infotechnics Ltd.*, FA 169085

(Nat. Arb. Forum Aug. 20, 2003) (“Respondent’s registration and use of a domain name nearly identical to Complainant’s mark to criticize Complainant’s business practices is evidence of registration and use of the <dinners-club.net> domain name in bad faith pursuant to Policy ¶ 4(a)(iii)”).

Respondent is also using MADD’s mark and information in meta tags in order to create initial interest confusion – causing consumers to mistakenly believe that Respondent’s websites are legitimate websites affiliated with Mothers Against Drunk Driving. Using misleading meta tag information ensures that Respondent’s websites appear as organic search results when a user searches for a MADD website, as opposed to sponsored or other types of search results. See Exhibit J. Using misleading meta tag information also ensures that Respondent’s websites present misleading titles and descriptions of Respondent’s websites, thereby tricking users into believing that Respondent’s websites are associated, affiliated, or sponsored by Mothers Against Drunk Driving.

Exhibit J illustrates several examples of Internet searches where Respondent’s websites are listed in response to searches for MADD plus those particular geographic areas (e.g., California, Florida, Nebraska, New York, and Pennsylvania). See Exhibit J. In each search, Respondent’s website appears on the first page of search results, even reaching the third search result. As illustrated in Exhibit J, each of Respondent’s websites appear as legitimate MADD websites because they provide misleading title and description information using meta tags, namely holding themselves as Mothers Against Drunk Driving websites.

Exhibit K shows the actual meta data used by Respondent. Respondent is not associated in any way with Mothers Against Drunk Driving. Yet, Respondent uses meta tags such as the following:

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<META NAME="DESCRIPTION" CONTENT="Mothers Against Drunk Driving  
is a 501(c)(3) Organization headquartered in Texas.">
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<META NAME="KEYWORDS" CONTENT="MADD, Mothers Against Drunk  
Driving, Florida">
```

See Exhibit K.

Respondent not only uses misleading domain names incorporating the famous MADD mark, but also uses MADD’s name and information as meta data to trick users into visiting Respondent’s web sites. This is all evidence of use and registration in bad faith under the Policy. See *Nw. Airlines, Inc. v. Jorgenson*, FA 96586 (Nat. Arb. Forum Mar. 28, 2001) (“Respondent registered the domain name for the purpose of bringing Internet users desiring to learn more about Complainant to Respondent’s site for the intended purpose of publishing contrary and critical views of Complainant thus disrupting the business of Complainant. Registering a domain name identical with the mark of Complainant, for this purpose, is bad faith”); see also *Do The Hustle, LLC v. Tropic Web*, D2000-0624 (WIPO Aug. 21, 2000) (“Respondent’s use of Complainant’s UNITED WAY mark both in the disputed domain name and on the resulting webpage

along with disparaging content, effectively diverting traffic away from Complainant, is itself evidence of bad faith under Policy ¶ 4(a)(iii)").

Whether Respondent's websites are used for profit or commercial gain is irrelevant when the purpose is to trick users into visiting Respondent's website by using Complainant's trademarks. *See Compagnie Generale des Matieres Nucleaires v. Greenpeace Int'l*, D2001-0376 (WIPO May 14, 2001) (finding that the disputed domain name was registered and used in bad faith although respondent's complaint website did not compete with complainant or earn commercial gain. Respondent's appropriation of complainant's trademark intending to cause "damage and disruption to [Complainant] cannot be right, still less where the use of the Domain Name will trick internet users intending to visit the trademark owner's site into visiting the registrant's site").

Given the facts that Respondent registered and uses the domain names at issue to disrupt MADD's activities and trick users into visiting Respondent's criticism websites, Respondent has registered and is using the domain names at issue in bad faith under the Policy.

[6.] **REMEDY SOUGHT**

Complainant requests that the Panel issue a decision that the domain-name registrations be transferred to Complainant, Mothers Against Drunk Driving. UDRP Rule 3(b)(x); UDRP Policy ¶ 4(i).

[7.] **OTHER LEGAL PROCEEDINGS**

No other legal proceedings have been commenced or terminated in connection with or relating to the domain names that are the subject of this complaint. UDRP Rule 3(b)(xi).

[8.] **COMPLAINT TRANSMISSION**

The Complainant asserts that a copy of this Complaint, together with the cover sheet as prescribed by NAF's Supplemental Rules, has been sent or transmitted to the Respondent (domain-name holder), in accordance with UDRP Rule 2(b) and to the Registrar(s) of the domain name(s), in accordance with FORUM Supp. Rule 4(e). UDRP Rule 3(b)(xii); FORUM Supp. Rule 4(c).

[9.] **MUTUAL JURISDICTION**

The Complainant will submit, with respect to any challenges to a decision in the administrative proceeding canceling or transferring the domain name, to the location of the principal office of the concerned registrar. UDRP Rule 3(b)(xiii).

[10.] **CERTIFICATION**

Complainant agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain-name holder and waives all such claims and remedies against (a) the National Arbitration Forum and

panelists, except in the case of deliberate wrongdoing, (b) the registrar, (c) the registry administrator, and (d) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.

Complainant certifies that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.

Respectfully Submitted,

Dated: April 12, 2011

/Justin S. Cohen/

Justin S. Cohen  
Deborah L. Lively  
Herbert J. Hammond

Thompson & Knight LLP  
1722 Routh Street, Suite 1500  
Dallas, Texas 75201

ATTORNEYS FOR MOTHERS AGAINST  
DRUNK DRIVING

## **Certificate of Service**

I hereby certify that a true and correct copy of Mothers Against Drunk Driving's Complaint with Exhibits was sent via Certified Mail No. 70101670000076086546, return receipt requested, on April 12, 2011 to:

Tom Alciere  
PO BOX 106  
Nashua, New Hampshire 03061

In addition, I certify that a true and correct copy of Mothers Against Drunk Driving's Complaint with Exhibits was sent via email to the following email addresses on April 12, 2011 to:

TomAlciere@TomAlciere.com;  
Postmaster@MADDCA.ORG;  
Postmaster@MADDFL.ORG;  
Postmaster@MADDNE.ORG;  
Postmaster@MADDNY.ORG;  
Postmaster@MADDPENNSYLVANIA.ORG; and  
Webmaster@StopTheMADDness.org

/Justin S. Cohen/

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