

## **ADMINISTRATIVE PANEL DECISION**

Massilly Holding SAS v. OFFICINA WORK  
Case No. D2022-2127

### **1. The Parties**

The Complainant is Massilly Holding SAS, France, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is OFFICINA WORK, Spain.

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

The disputed domain name <masilly.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 13, 2022. On June 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 15, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 1, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 6, 2022.

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 the Respondent of the Complaint, and the proceedings commenced on July 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 18, 2022.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on September 6, 2022. 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 one of the world's leading manufacturing companies in metal packaging, specializing in the manufacture of capsules, cans, aerosols, industrial packaging, decorated and personalized boxes. The Complainant was founded in France in 1911.

The Complainant owns trademark registrations in various jurisdictions, including the European Union trademark MASSILLY (Reg. No. 008396681, registered on January 12, 2010), the United Kingdom trademark MASSILLY (Reg. No. UK00908396681, registered on January 12, 2010) and the International trademark MASSILLY (Reg. No. 1212831, registered on April 9, 2014).

The Complainant further holds the domain name <massilly.com> under which the official website of the Complainant is available. The Complainant holds various other domain names incorporating the Complainant's trademark. The Complainant advertises and sells its services through its <massilly.com> domain name.

The disputed domain name was registered on May 11, 2021, according to the Complaint it does not resolve to an active website..

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

On the basis of the facts and evidence introduced by the Complainant, and with regard to paragraphs 4(a), (b), and (c) of the Policy, the Panel concludes as follows:

##### **A. Identical or Confusingly Similar**

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the MASSILLY trademark.

The Complainant's trademark is almost entirely reproduced in the disputed domain name.

A domain name is "identical or confusingly similar" to a trademark for the purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of other terms in the domain name (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)).

This includes the deletion of other terms or letters like "s" in the disputed domain name, which is considered a common, obvious, or intentional misspelling of a trademark (*i.e.*, "typosquatting"). See the WIPO Overview

of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.9.

UDRP Panels have found that omitting letters of a registered trademark incorporated into a domain name may constitute confusing similarity under the specific facts of the case if the term of the disputed domain name is very similar to the trademark in its overall impression, for example because of its visual impression or pronunciation (*Microsoft Corporation v. Microsof.com aka Tarek Ahmed*, WIPO Case No. [D2000-0548](#)). In this case, the Respondent has deleted only one of the letters “s” in the Complainant’s MASSILLY trademark. The term “masilly” is confusingly similar to the Complainant’s MASSILLY trademark both in visual impression and pronunciation. The Panel holds that the deletion of the letter “s” in the Complainant’s MASSILLY trademark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s trademark under the specific circumstances of this case.

The Complainant has thus fulfilled the requirements of paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain name. The Complainant contends that the Respondent is neither affiliated with the Complainant nor making any *bona fide* use of the disputed domain name. Furthermore, the Respondent has not advanced any legitimate use pertaining to the term “masilly” or the disputed domain name.

According to the Complaint, the disputed domain name resolves to a blank page, and lacks content. This cannot be considered as a *bona fide* offering of goods or services or a noncommercial use.

Furthermore, the composition of the disputed domain name, almost entirely reproducing the Complainant’s trademark, cannot constitute fair use in these circumstances as it was chosen probably due to its similarity with the Complainant’s trademark, with the likely intention of unfairly benefiting of the potential likelihood of confusion in a case of a typographical error.

The Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

## **C. Registered and Used in Bad Faith**

Under the circumstances of this case, including the composition of the disputed domain name and reputation of the Complainant’s trademark, it can be inferred that the Respondent was aware of the Complainant’s trademark when registering the disputed domain name.

The Panel finds that the reproduction of the Complainant’s trademark except for the letter “s” creates a likelihood of confusion between the Complainant’s trademark and the disputed domain name. The Panel finds that the deletion of the letter “s” in the Complainant’s trademark is susceptible of misleading Internet users by creating a likelihood of confusion between the Complainant’s trademark and the disputed domain name. Such composition of the disputed domain name reflects an intention on the part of the Respondent of taking unfair advantage of the Internet users seeking the Complainant (See [WIPO Overview 3.0](#), section 1.9).

The Respondent therefore has registered and used the disputed domain name in bad faith (see *Claudie Pierlot v. Yinglong Ma*, WIPO Case No. [D2018-2466](#)). The fact that the disputed domain name does not resolve to an active website does not prevent a finding of bad faith.

Accordingly, the Complainant has also fulfilled paragraph 4(a)(iii) of the Policy.

## 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 <masilly.com> be transferred to the Complainant.

*/Tobias Zuberbühler/*

**Tobias Zuberbühler**

Sole Panelist

Date: September 21, 2022