

ADMINISTRATIVE PANEL DECISION

Mizuno Corporation v. Client Care, Web Commerce Communications Limited,
Domain Admin, Whoisprotection.cc, Ziegler Jana
Case No. D2023-3245

1. The Parties

The Complainant is Mizuno Corporation, Japan, represented by Demys Limited, United Kingdom.

The Respondents are Client Care, Web Commerce Communications Limited, and Domain Admin, Whoisprotection.cc, Malaysia, and Ziegler Jana, Germany.

2. The Domain Names and Registrars

The disputed domain names <lojamizunoutlet.com>, <mizuno-australia.com>, <mizunogolfdanmark.com>, <mizunogreece.com>, <mizuno-india.com>, <mizunomagyarorszag.com>, <mizuno-mexico.com>, <mizuno-nederland.com>, <mizunonewzealand.com>, <mizuno-nz.com>, <mizunophilippines.com>, <mizunophilippinesph.com>, <mizunoportugal.com>, <mizunoportugalpt.com>, <mizuno-romania.com>, <mizunoromania.com>, <mizunorunnersireland.com>, <mizunorunningoutlet.com>, <mizunoschoenen.com>, <mizunoshoessouthafrica.com>, <mizunoshopschweiz.com>, <mizuno-southafrica.com>, <mizuno-turkey.com>, <mizunoturkey.com>, and <mizuno-uk.com> are registered with <Alibaba.com> Singapore E-Commerce Private Limited (the “First Registrar”).

The disputed domain name <mizunomagyarország.com> is registered with Gransy, s.r.o. d/b/a <subreg.cz> (the “Second Registrar”).

The disputed domain names are collectively referred to as “the Domain Names”. <Alibaba.com> Singapore E-Commerce Private Limited, and Gransy, s.r.o. d/b/a <subreg.cz> are collectively referred to as “the Registrars”.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 26, 2023. On July 28, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Domain Names. On July 31, 2023, the First Registrar and on August 1, 2023, the Second Registrar, transmitted by email to the Center their verification responses disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Redacted) and contact information in the Complaint.

The Center sent an email communication to the Complainant on August 1, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on August 3, 2023.

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 Respondents of the Complaint, and the proceedings commenced on August 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on August 29, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on September 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 Mizuno Corporation is a Japanese sports equipment and sportswear company, founded in Osaka in 1906 by Rihachi Mizuno. The Complainant manufactures a wide variety of sports equipment and sportswear for badminton, baseball, boxing, cycling, association football, gridiron football, futsal, golf, judo, rugby, running, skiing, athletics, swimming, table tennis, tennis, and volleyball.

The Complainant owns many trademark registrations incorporating the word MIZUNO including:

Registration No.	Trademark	Jurisdiction	Registration Date
0416539	MIZUNO	Japan	September 26, 1952
2P-313963	MIZUNO	Switzerland	February 25, 1982
165971	MIZUNO	China	November 30, 1982
2163515	MIZUNO (& design)	United States of America	June 9, 1998

The 26 (twenty-six) Domain Names involved in this dispute were registered by the Respondents between April 2021 and November 2022.

All of the Domain Names incorporate the Complainant’s MIZUNO mark. In addition, 20 of the Domain Names resolve to websites that have the “look and feel” of the Complainant’s website at “www.mizuno.com” and they appear to offer the Complainant’s products. Four of the Domain Names redirect to other Domain Names reflecting the above-referenced impersonating website and one Domain Name redirects to another domain name that is not part of these proceedings, but similarly reflects a web store allegedly offering the Complainant’s products.

5. Parties’ Contentions

A. Complainant

The Domain Names are confusingly similar to the Complainant’s MIZUNO trademarks.

The Respondents have no rights or legitimate interests in respect of the Domain Names. The Respondents have registered and are using the Domain Names in bad faith.

The Complainant requests the consolidation of the Domain Names based on the reasons provided in its Complaint and amended Complaint.

The Complainant requests the transfer of the Domain Names.

B. Respondents

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

6. Discussion and Findings

6.1. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the Domain Names are under common control. The Complainant requests the consolidation of the Complaint against the multiple Domain Name registrants pursuant to paragraph 10(e) of the Rules.

The Domain Name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the Domain Names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes, based on the detailed evidence provided by the Complainant, that:

- The Domain Names were all registered with only one registrar (the First Registrar) except for the Domain Name <mizunomagyarország.com> that was registered with the Second Registrar.
- All the Domain Names share the same pattern: they combine the trademark of the Complainant with the addition of a geographic term (countries) or a two-letter country code name or a term.
- The Domain Names ultimately resolve to websites that are near identical in design: in terms of web content, all of the Domain Names ultimately resolve to live websites which appear to offer the Complainant's products. Of twenty-six (26) Domain Names, twenty (20) Domain Names directly resolve to live websites, four (4) redirect to other Domain Names and one (1) redirects to a domain name that is not part of these proceedings.
- None of the Respondents' websites contain a disclaimer that clarifies the lack of relationship between the parties.
- The registrants "Domain Admin, Whoisprotection.cc" and "Client Care, Web Commerce Communications Limited" were jointly named as respondent in 10 previous cases under the UDRP.
- The Complainant observes that of those ten (10) cases mentioned above, all share many similarities with the current case, namely all the domain names, including the disputed domain names: (i) Follow similar naming patterns; (ii) Target clothing brands, (iii) In cases where they resolve to a live website, those websites have "look and feel" of targeted rights holders.

The Complainant provided very extensive and sufficient evidence to support consolidation of the Respondents into one proceeding based on its Complaint, its amended Complaint, and the information available in the record.

As regards fairness and equity, the Panel sees no reason why consolidation of the Respondents would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different Domain Name registrants (referred to below as “the Respondent”) in a single proceeding.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements with respect to each disputed domain name:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant. The Respondent’s default does not by itself mean that the Complainant is deemed to have prevailed. See [WIPO Overview 3.0](#), section 4.3.

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 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.

All the Domain Names entirely reproduce the Complainant’s trademark MIZUNO with the mere addition of terms related to countries such as Australia, Denmark, Greece, India, Magyar (Hungary), Mexico, Netherlands (the Kingdom of), New Zealand, Philippines, Portugal, Romania, Ireland, South Africa, Schweiz (Switzerland in German) and Türkiye and/or a combination of letters which may be interpreted as a country code, such as “nz”, “pt”, “ph”, “uk” or terms related to the Complainant’s businesses, such as “loja” (shop in Portuguese), “running”, “outlet”, “golf”, “runners”, “Schoenen” (Shoes), “shoes”, and “ország” (country in Hungarian), and “shop”.

The Panel finds the MIZUNO mark is recognizable within all the Domain Names. Accordingly, the Domain Names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of terms may bear on assessment of the second and third elements, the Panel finds the addition of terms does not prevent a finding of confusing similarity between the Domain Names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel accordingly finds that all the Domain Names are confusingly similar to the MIZUNO mark in which the Complainant has rights, and that paragraph 4(a)(i) of the Policy is satisfied.

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 Domain Names. The Respondent has not rebutted Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Names such as those enumerated in the Policy or otherwise.

The Complainant stated that the Respondent is not a genuine reseller of MIZUNO products, as the Respondent and the Domain Names are not part of the Complainant’s distribution network, and as such the Complainant’s products sold on the Respondent’s websites may be either counterfeit or at least “parallel import” / “grey market” goods.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. While the genuine nature of the goods allegedly offered is unclear, it is not necessary for the Panel to reach such conclusion given the lack of disclaiming information on the websites and thus their inherently misleading nature. Further to section 2.8 of the [WIPO Overview 3.0](#), the Panel finds that the use of the Domain Names does not fall within the caveat of fair use.

Based on the available record, the Panel finds the second element of the Policy has been established.

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) 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 considers that the record of this case reflects that:

- The registration of the Complainant’s trademark pre-dates the registration of the Domain Names by several decades.
- The Domain Names incorporate the Complainant’s MIZUNO mark in its entirety, with the addition of descriptive terms or geographical indicators such as “India”, “Mexico”, “outlet”, and “golf”.
- The Respondent has made unauthorized use of the Complainant’s copyright material on its websites, including the Complainant’s MIZUNO logotype and mark, product photographs and descriptions, and marketing images.
- The Domain Names incorporate the Complainant’s mark, which is the most prominent element of the Domain Names. In addition, the Respondent’s websites have the “look and feel” of the Complainant’s website.
- The Respondent is in default.

The Panel considers that the record of this case reflects that the Respondent has registered the Domain Names to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Consequently, the Panel concludes that the Domain Names were registered, and are being used in bad faith, and the requirements of paragraph 4(a)(iii) of the Policy are met.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 Domain Names <lojamizunootlet.com>, <mizuno-australia.com>, <mizunogolfdanmark.com>, <mizunogreece.com>, <mizuno-india.com>, <mizunomagyarorszag.com>, <mizunomagyarország.com>, <mizuno-mexico.com> <mizuno-nederland.com>, <mizunonewzealand.com>, <mizuno-nz.com>, <mizunophilippines.com>, <mizunophilippinesph.com>, <mizunoportugal.com>, <mizunoportugalpt.com>, <mizuno-romania.com>, <mizunoromania.com>, <mizunorunnersireland.com>, <mizunorunningoutlet.com>, <mizunoschoenen.com>, <mizunoshoesouthafrica.com>, <mizunoshopschweiz.com>, <mizuno-southafrica.com>, <mizuno-turkey.com>, <mizunoturkey.com> and <mizuno-uk.com> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: October 5, 2023