

ADMINISTRATIVE PANEL DECISION

Micromania Group v. Ibrahim Adamou, Playsgames Case No. D2022-2651

1. The Parties

The Complainant is Micromania Group, France, represented by AARPI Scan Avocats, France.

The Respondent is Ibrahim Adamou, Playsgames, Benin.

2. The Domain Name and Registrar

The disputed domain names <micromania-es.co> and <micromania-es.shop> are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 20, 2022. On July 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 21, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 25, 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 amendment to the Complaint on August 8, 2022.

The Center verified that the Complaint together with the amendment to 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 August 17, 2022. In accordance with the Rules, paragraph 5, the due date for filing a Response was September 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 7, 2022.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on September 14, 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.

3.1. Preliminary Issue: Consolidation.

Consolidation of multiple domain names may be appropriate under paragraphs 3(c) and 10(e) of the Rules, where the particular circumstances of the case indicate that common control is being exercised over the disputed domain names.

In accordance with the information provided by the relevant Registrar, the registrant of the disputed domain names is the following individual:

- <micromania-es.co> - Ibrahim Adamou, Playsgames
- <micromania-es.shop> - Ibrahim Adamou

The Complainant has requested to consolidate multiple domain names owned by the same registrant in the same proceeding.

Taking the above into account, and pursuant to paragraph 10(e) of the Rules, this Panel decides to consolidate the disputed domain names in this proceeding, under paragraph 3(c) of the Rules, since the registrant of the disputed domain names is the same person.

4. Factual Background

The Complainant is a French company in the video game retail business. In 2008, the Complainant was acquired by GameStop, the world's leading video game retailer.

The Complainant has over 400 stores in France, 1,700 employees in France, 2.9 million customers, and over 500 million euros in turnover.

The Complainant is the owner of several trademark registrations around the world, among others, the following:

Trademark	No. Registration	Jurisdiction	Date of Registration
MICROMANIA	3452198	France	September 25, 2006
MICROMANIA	3453569	France	September 29, 2006
MICROMANIA	933880	International Registration	March 16, 2007

The Complainant owns the domain name <micromania.fr>, through which it has continuously used the MICROMANIA trademark since at least May 2000. As well, the Complainant is the owner of the domain names <micromania.com>, <micromania.eu>, and <micromania.net> all of which were registered before the dates of registration of the disputed domain names.

The Respondent registered the disputed domain names <micromania-es.co> and <micromania-es.shop>, on June 10, 2022, and on June 13, 2022, respectively.

The domain name <micromania-es.shop> initially resolved to a website that was reproducing the Complainant's trademark and that was offering for sale products identical to those commercialize by Micromania Group. Currently, it resolves to an inactive page. The disputed domain name <micromania-es.co> resolves to an inactive page.

5. Parties' Contentions

A. Complainant

I. Identical or Confusingly Similar

The Complainant is the owner of "micromania" company name, trademarks and domain names, all of them being registered prior to the date of registration of the disputed domain names.

That the disputed domain names are identical or confusingly similar to the Complainant's trademarks.

That the addition of the generic Top-Level Domain ("gTLD"), and the country code Top-Level Domain ("ccTLD") to the disputed domain names is a standard registration requirement, and that they should therefore be disregarded in the analysis of confusing similarity.

That the disputed domain names are confusingly similar to the MICROMANIA trademark, as they include it entirely, with the addition of a hyphen and the abbreviation "es", which corresponds to the ISO code for Spain.

II. Rights or Legitimate Interests

That the Respondent has no rights to or legitimate interests in the disputed domain names.

That, to the best of the Complainant's knowledge, the Respondent is not currently and has never been known under the name "micromania".

That the disputed domain names are not used to promote a *bona fide* offering of goods or services.

That the disputed domain names do not provide Internet users with any information regarding the Respondent.

That the disputed domain name <micromania-es.co> resolves to an inactive page.

That the Complainant does not know the Respondent, who is not in any way related to the Complainant's business, is not its franchisee, and does not carry out any activity for the Complainant.

That the Complainant has never given any authorization or permission to the Respondent to register or use its trademarks as part of the disputed domain names.

That the Respondent has intentionally created confusion in order to divert consumers from the Complainant's website to the website to which the disputed domain name <micromania-es.shop> resolved, which website has not been used to promote a *bona fide* offering of goods and services, and has not had a noncommercial legitimate purpose.

That the disputed domain name <micromania-es.shop> has carried a risk of implied affiliation, as it has impersonated the Complainant, or has suggested the existence of a sponsorship or endorsement by the said Complainant.

That, on the website to which the disputed domain name <micromania-es.shop> has resolved, the MICROMANIA trademark has been used in relation to the same business as that of the Complainant, imitating the Complainant's website, and reproducing pictures of the Complainant's physical stores.

That the legal notice displayed on the website to which the disputed domain name <micromania-es.shop> resolved, featured information suggesting that such website was related to the Complainant.

III. Registered and Used in Bad Faith

That the attraction, for commercial gain, of Internet users to the website to which the disputed domain name <micromania-es.shop> resolved, constitutes evidence of the Respondent's bad faith.

That, since the MICROMANIA trademark is well-known, it is unlikely that the Respondent ignored the existence of the Complainant and its prior trademark at the time of registration of the disputed domain names.

That the Respondent registered the disputed domain names having the Complainant and its trademarks in mind.

That the disputed domain name <micromania-es.shop> has been used in connection with an online shop offering products similar to those sold by the Complainant, where the Complainant's trademarks and images of its physical stores have been reproduced, in order to create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement thereof, to attract for commercial gain Internet users to the Respondent's website.

That the disputed domain names are currently inactive. That, even so, bad faith can still be found under the passive holding doctrine.

That the Complainant has demonstrated to have a strong reputation and a leading brand in its industry.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant is required to prove that each of the three following elements is satisfied:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names were registered and are being used in bad faith.

Given the Respondent's failure to submit a formal Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations, in accordance with paragraphs 5(f), 14(a), and 15(a) of the Rules, (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

A. Identical or Confusingly Similar

The disputed domain names are confusingly similar to the Complainant's trademark MICROMANIA, as they incorporate said trademark entirely, with the addition of the ISO-3166 code for Spain, *i.e.*, "es", and a hyphen between them (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions ("[WIPO Overview 3.0](#)"). The addition of these elements do not prevent a finding of confusing similarity between the disputed domain names and the Complainant's trademark.

The addition of the gTLD ".shop", and the ccTLD ".co" to the disputed domain names constitutes a technical requirement of the Domain Name System ("DNS"), and therefore are disregarded under the first element confusing similarity test

(see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#); and *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#)).

In light of the above, the first element of the Policy has been met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets forth the following examples as circumstances where a respondent may have rights to or legitimate interests in a disputed domain name:

(i) before any notice to the respondent of the dispute, the use by the respondent of, or demonstrable preparations to use, the disputed 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 disputed domain name, even if it did not acquire 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 Complainant has asserted that there is no relationship between the Complainant and the Respondent, that it has not granted any authorization to the Respondent to use its trademark MICROMANIA, and that the Respondent has not been commonly known by the disputed domain names (see *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. [D2010-1431](#); and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. [D2004-0272](#)). The Respondent did not contest these allegations.

The case file contains no evidence demonstrating that the Respondent has used or has made demonstrable preparations to use the disputed domain names in connection with a *bona fide* offering of goods or services (see *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. [D2016-1747](#); and *Rolex Watch U.S.A., Inc. v. NCSO*, WIPO Case No. [D2010-0948](#)).

According to the evidence filed by the Complainant, the disputed domain name <micromania-es.shop> has resolved to a website that appeared to be an online store through which video games and electronic products were being sold and currently resolves to an inactive page. The disputed domain name <micromania-es.co> resolves to an inactive page.

The disputed domain names consist of the Complainant's trademark MICROMANIA plus the ISO-3166 code for Spain "es". It can be inferred that the disputed domain names carry a risk of implied affiliation, since Internet users may think that the websites to which the disputed domain names resolve is the Complainant's official website in Spain or is otherwise affiliated to or sponsored by the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#), see also *Euro Sko Norge AS v. Whoisguard Inc. / Shier Dede, Shier Dede*, WIPO Case No. [D2020-0194](#), *Bechtel Group, Inc. v. Raman Shuk* WIPO Case No. [D2020-1469](#), *Biofarma v. Dawn Mason*, WIPO Case No. [D2019-1952](#)).

Furthermore, according to the evidence submitted by the Complainant, the website to which the disputed domain name <micromania-es.shop> has resolved predominantly displayed the Complainant's MICROMANIA trademark and reproduced images of the Complainant's physical stores. This shows that the Respondent has attempted to impersonate the Complainant. A finding of impersonation prevents a determination of a *bona fide* offering of goods or services (see section 2.13.1 of the [WIPO Overview 3.0](#); see also *Self-Portrait IP Limited v. Franklin Kelly*, WIPO Case No. [D2019-0283](#)).

The Complainant has made a *prima facie* case asserting that there is no evidence of the Respondent's use of the disputed domain names in connection with a *bona fide* offering of goods or services and that the Respondent has not been commonly known by the disputed domain names. The Respondent has not submitted evidence to prove otherwise.

Therefore, the second element of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

Bad faith under the Policy is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location.

The Complainant has submitted evidence showing that it holds trademark rights related to the MICROMANIA brand. The date of registration of the Complainant's trademark significantly precedes the date of registration of the disputed domain names.

This Panel agrees with the determination reached in *MICROMANIA GROUP v. Serge Blanco, Micromania* WIPO Case No. [D2021-1702](#), in that the MICROMANIA trademark is well-known.

Considering that MICROMANIA is a well-known trademark, and given the characteristics of the website to which the disputed domain name <micromania-es.shop> has resolved, it can be inferred that the Respondent knew the Complainant and its business when registering the disputed domain name, which shows opportunistic bad faith (see sections 3.1.4., and 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#); and *Carrefour v. Jane Casares, NA*, WIPO Case No. [D2018-0976](#)).

In particular, the fact that the disputed domain name <micromania-es.shop> incorporates the Complainant's trademark, that it has resolved to a website that predominantly displayed the Complainant's trademark, has reproduced pictures of the Complainant's physical stores, and has contained offers to sell the same products as those of the Complainant, suggests that the Respondent knew the Complainant, its trademarks, and its business when registering the disputed domain name. Therefore it is safe to infer that the Respondent has targeted the Complainant, which constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)).

These facts also show that the Respondent has intentionally used the disputed domain name <micromania-es.shop> to attract, for commercial gain, Internet users to the website to which said disputed domain name has resolved, by creating the impression among Internet users that said website is related to, associated with, or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. [D2014-0365](#); and *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)).

According to the evidence submitted by the Complainant, the Respondent has used the disputed domain name <micromania-es.shop> in an attempt to impersonate the Complainant for commercial gain, which constitutes bad faith under the Policy (see also *Self-Portrait IP Limited v. Franklin Kelly*, supra; and *Friedman and Soliman Enterprises, LLC v. Gary Selesko, M&B Relocation and Referral, LLC*, WIPO Case No. [D2016-0800](#)).

The disputed domain name <micromania-es.co> resolves to an inactive page. Even though both disputed domain names are currently inactive, the consensus view amongst panels appointed under the Policy is that the fact that a domain name is not active does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#), “from the inception of the UDRP, panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding”; see also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) and “*Dr. Martens*” *International Trading GmbH and “Dr. Maertens” Marketing GmbH v. Godaddy.com, Inc.*, WIPO Case No. [D2017-0246](#)).

In the present case, the following facts have been found:

- That the Complainant’s trademark MICROMANIA is well-known.
- That said trademark refers directly and specifically to the Complainant’s MICROMANIA name, which company has over 400 physical stores and 2.9 million customers.
- That the Respondent has not filed any evidence or arguments to explain why it registered the disputed domain names which are confusingly similar to the MICROMANIA trademark, and why it had the disputed domain name <micromania-es.shop> resolve to a website that impersonated the Complainant.

In light of the above, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain names by the Respondent that would not be illegitimate under the Policy (see *Telstra Corporation Limited v. Nuclear Marshmallows*, supra, and *CBS Broadcasting Inc. v. Dennis Toeppen*, WIPO Case No. [D2000-0400](#)).

Therefore, the third element of the Policy has been met.

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 names, <micromania-es.co> and <micromania-es.shop>, be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: September 28, 2022