

## **ADMINISTRATIVE PANEL DECISION**

Montblanc Simplo GmbH, Compagnie Financiere Richemont SA v. Privacy Service Provided by Withheld For Privacy Ehf / Ieyr Raich  
Case No. D2022-3318

### **1. The Parties**

Complainants are Montblanc Simplo GmbH, Germany, and Compagnie Financiere Richemont SA, Switzerland, represented by Corsearch, United States of America (“USA”).

Respondent is Privacy Service Provided by Withheld For Privacy Ehf, Iceland / Ieyr Raich, USA.

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

The disputed domain name <montblancbrand.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 September 7, 2022. On September 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 Complainants on September 8, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on September 12, 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 Respondent of the Complaint, and the proceedings commenced on September 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 4, 2022.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on October 7, 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

Complainants are Montblanc Simplo GmbH and Compagnie Financiere Richemont SA, manufacturing companies of luxury goods, with Compagnie Financiere Richemont SA being the parent company of Montblanc Simplo GmbH. The Complainants provide goods and services for the luxury market, such as watches, writing instruments, jewelry and leather goods.

Complainant Montblanc Simplo GmbH owns a wide portfolio of trademark registrations internationally containing the word mark MONTBLANC. A few examples of such trademark registrations can be found below:

Registration No.	Trademark	Jurisdictions	International Classes	Date of Registration
0776208	MONTBLANC	USA	16	September 1, 1964
132223	MONTBLANC	Germany	16	July 8, 1910
002508380	MONTBLANC	European Union	6, 8, 9, 21, 25, 34	June 6, 2003
524326	MONTBLANC	International	16	June 16, 1988

Complainants are well known around the world for the trademark MONTBLANC, which they use to name their products and services related to luxury goods.

The disputed domain name was registered on June 28, 2021, and resolves to a webpage which contains Complainants' trademark MONTBLANC and imagery of original products provided by Complainants.

#### 5. Parties' Contentions

##### A. Complainants

Complainants plead that the disputed domain name is confusingly similar to their registered trademark MONTBLANC, since it fully incorporates Complainants' trademark MONTBLANC with the addition of the term "brand" and the generic Top Level Domain ("gTLD") ".com".

Complainants affirm that Respondent creates a confusion, considering specially that the disputed domain name uses the trademark MONTBLANC in its entirety with the addition of the generic word "brand" – which would not avoid a confusingly similarity between the disputed domain name and Complainants' trademark –, as consumers may believe that this domain name is linked to Complainants.

Complainants observe that the disputed domain name presents a high risk of confusion to consumers, who will likely believe it is linked with Complainants' trademark MONTBLANC, fulfilling paragraph 4(a)(i) of the Policy and paragraph 3(b)(viii) and 3(b)(ix)(1) of the Rules.

In addition, Complainants state that Respondent would not have any rights or legitimate interests in respect of the disputed domain name, nor is Respondent commonly known by the disputed domain name. Further, Respondent has not been authorized, or licensed to use Complainants' trademark MONTBLANC as a domain name nor is Respondent associated with neither of Complainants.

Complainants stress that Respondent tries to impersonate them on the website which purports from the disputed domain name, in which Respondent supposedly provides products containing the trademark MONTBLANC for consumers, who will most likely believe that these are services linked to Complainants.

Furthermore, Complainants note that the disputed domain name was registered significantly after the first use in commerce of the trademark MONTBLANC, which dates back to 1910.

This way, the Complainants state that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules has been fulfilled.

Moreover, Complainants state that (i) Respondent is intentionally diverting costumers into the website hosted by the disputed domain name through the confusion caused by the unauthorized use of the trademark MONTBLANC; (ii) Respondent is offering supposedly original MONTBLANC products for sale at the website which purports from the disputed domain name, obtaining commercial gain in a non-authorized way; and (iii) Respondent was well aware of Complainants' rights to the trademark MONTBLANC, as it is well-known internationally.

Thus, the requirements for the identification of a bad faith registration and use of the domain name would have been fulfilled, pursuant to paragraph 4(b)(iv) of the Policy.

## **B. Respondent**

Respondent did not reply to Complainants' contentions.

## **6. Discussion and Findings**

To succeed in a UDRP complaint, a complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights; and
- (ii) 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 proving these elements is upon the complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

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

Complainants have duly proven that they own prior trademark rights for MONTBLANC, and that the disputed domain name is constituted by the trademark MONTBLANC in its entirety with the sole addition of the term “brand”.

The addition of the term “brand” does not prevent a finding of confusing similarity with Complainants’ trademark MONTBLANC – since the trademark MONTBLANC is fully integrated and recognizable in the disputed domain name.

Thus, the Panel finds that the disputed domain name is confusingly similar to Complainants’ trademark MONTBLANC, and so the requirement of the first element of paragraph 4(a) of the Policy is satisfied.

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

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) as follows: “[w]hile 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.”

In this case, noting the facts and contentions listed above, the Panel finds that Complainants have made out a *prima facie* case showing that Respondent lacks rights or legitimate interests in the disputed domain name, so the burden of production shifts to Respondent. As Respondent has not replied to Complainants’ contentions, the Panel has considered Complainants’ un rebutted *prima facie* case to be sufficient to demonstrate that Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, Respondent has not used the disputed domain name in the context of a *bona fide* use that could demonstrate rights or legitimate interests. The composition of the disputed domain name, adding the term “brand” to Complainants’ MONTBLANC trademark, coupled with the use of the disputed domain name to resolve to a website in which Respondent tries to impersonate Complainants and supposedly sell MONTBLANC products, as duly proven by Exhibit H annexed to the Complaint, affirms Respondent’s intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and Complainants as to the origin or affiliation of the website at the disputed domain name.

Therefore, the Panel finds that the requirement of the second element of paragraph 4(a) of the Policy is also satisfied.

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

Paragraph 4(b) of the Policy lists a number of circumstances that, without limitation, are deemed evidence of registration and use of a domain name in bad faith.

Respondent has registered the disputed domain name that fully incorporates Complainants’ well-known trademark MONTBLANC, plus the addition of the term “brand”. The Panel finds that it was duly demonstrated that Respondent was aware of Complainants’ rights to the trademark MONTBLANC at the time of the registration – as the Complainants enjoy a worldwide reputation with the use of the referred trademark and this reputation dates back prior to the registration of the disputed domain name.

With that in sight, the Panel finds that Respondent was aware of Complainants' rights to the well-known trademark MONTBLANC and registered the disputed domain name with the intention of attracting Internet users in search of authentic MONTBLANC goods and services. See *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#):

"It is clear that the Domain Names can only refer to the Complainant. Moreover the Domain Names are so obviously connected with such a well-known name and products that its very use by someone with no connection with the products suggests opportunistic bad faith (*Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#))."

In addition, the content of the website at the disputed domain name in the present circumstances allows a finding of bad faith registration and use, since the evidence indicate that Respondent uses the disputed domain to impersonate the Complainants and supposedly sell products under the MONTBLANC trademark. As concluded by the Panel in *All-Clad Metalcrafters LLC v. Eugene Preston*, WIPO Case No. [D2021-0799](#), the attempt to impersonate a complainant by using its registered trademark and allegedly offering its products/services is an indicative of bad faith:

"This point is further confirmed by Respondent's use of the Domain Names. The evidence indicates that Respondent has used the Domain Name <all-clad.store> in an attempt to impersonate Complainant, by displaying Complainant's logo and copying pictures of Complainant's products on Respondent's site, and then attempting to profit from the confusion by offering Complainant's products (or counterfeits) for sale at a discounted price. Respondent's actions create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of this Domain Name, and Respondent is using the fame of Complainant's ALL-CLAD mark to improperly increase traffic to the site linked to this Domain Name for Respondent's own commercial gain. Further, Respondent's use of the Domain Names <all-clad.club>, <allclad.online> and <all-cladus.online> disrupts Complainant's business because they are confusingly similar to Complainant's ALL-CLAD mark and the websites linked to them are being used to offer either competing or counterfeit goods. The Panel finds that Respondent, through this scheme, has intentionally attempted to attract for commercial gain Internet users to Respondent's online location by creating a likelihood of confusion with Complainant's ALL-CLAD marks as to the source, sponsorship, affiliation, and endorsement of Respondent's scheme."

Panel finds that the circumstances of the present case allows a finding of bad faith in the registration and use of the disputed domain name, considering specially that (i) Respondent clearly tries to obtain profit by impersonating Complainants' business, by using the trademark MONTBLANC and supposedly offering MONTBLANC products for sale; and (ii) the trademark MONTBLANC is well-known internationally for more than 100 years in the past, and Respondent most likely knew (or should have known) its existence, taking advantage of the confusion caused on the public by its use in the disputed domain name along with the descriptive term "brand".

In light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. Therefore, the requirement of the third element of paragraph 4(a) of the Policy is satisfied.

## **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, <montblancbrand.com>, be transferred to Complainant.

*/Gabriel F. Leonardos/*

**Gabriel F. Leonardos**

Sole Panelist

Date: October 24, 2022