

ADMINISTRATIVE PANEL DECISION

Mayr-Melnhof Karton AG v. Muhammad Muhteshim Ghazali, Muhtesem Enterprise

Case No. D2022-4570

1. The Parties

The Complainant is Mayr-Melnhof Karton AG, Austria, represented by Hofstetter, Schurack & Partner, Germany.

The Respondent is Muhammad Muhteshim Ghazali, Muhtesem Enterprise, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <mmpapermills.com> is registered with OnlineNic, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2022. On December 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 3, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 December 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 27, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on January 10, 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 is a global player in the paper and cardboard Industry. In fact, the Complainant is a leading global producer of carton board and folding cartons that offers kraft paper and uncoated fine papers for various end applications. The Complainant currently employs nearly 12,500 people and has 74 production sites on three continents, six of which are mills, while 67 are packaging plants. The carton board products are sold in more than 140 countries. In the 2021 financial year, revenues of around EUR 3.1 billion were recorded.

The MM Group's operations are entirely concentrated on the core business areas, which are managed in two operative segments: MM Board & Paper (formerly MM Karton) and MM Packaging.

MM Board & Paper is a worldwide leading manufacturer of coated recovered carton board with a growing position in virgin fiber-based board.

MM Packaging is one of Europe's largest manufacturers of folding cartons with a growing presence outside of Europe.

The Complainant owns a family of trademarks consisting of or beginning with the letters "mm", such as MM, MM KARTON, MM BIB LINER, MM PACKAGING, MM-TOPLINER, MM FLOW, MM DIGI LINER, etc. These trademarks mainly claim protections for goods falling in class 16 (e.g., paper, cardboards and goods made from these materials). The Complainant also trades with the letters "mm" internationally.

The Complainant has registered, *inter alia*, the following trademarks:

- MM (device), European Union Trade Mark No. 1686911 registered on May 9, 2022;
- MM KARTON (word), International Trade Mark No. 1188528, registered on November 15, 2013;
- MM KARTON (word), European Union Trade Mark No. 100/1188528 registered on January 10, 2015;
- MM KARTON (word), European Union Trade Mark No. 011841624 registered on October 16, 2013;
- MM KARTON (device), Austrian Registration No. 41200, registered on May 20, 1959.

The Complainant also operates, *inter alia*, the domain names <mm-boardpaper.com>, <mm-packaging.com>, and <mm.group>.

The disputed domain name was registered on March 5, 2021.

The disputed domain name is in use as an online shop for quality paper and cardboard. Goods can be ordered via email or telephone.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

- (a) the disputed domain name is confusingly similar to the Complainant's trademark;

Specifically, the Complainant claims that:

- The disputed domain name consists solely of the dominant feature of the Complainant's trademarks MM and the descriptive term "papermills", which leads the public to assume that the disputed domain name is somehow connected to the Complainant as the owner of the MM trademarks;
- The website content encourages the aforementioned confusion through the offering of paper and cardboard under a "MM Board & Paper Mills" logo, as well as a product name "MM Kraft" for kraft paper;
- Consequently, it is clear that the Respondent registered the domain name precisely because he believed that the domain name was confusingly similar to the MM trademarks and the domain names <mm.group>, <mm-boardpaper.com>, <mm-packaging.com>, <mm-karton.com>, etc., held by the Complainant.

- (b) the Respondent lacks any rights or legitimate interests in the disputed domain name;

In this regard the Complainant notes, *inter alia*, that to the best of the Complainant's knowledge the enterprise "MM Paper & Board Mills", which claims to be "Pakistan's leading manufacturer of kraft and liner board paper", does not exist and the company sign is not protected as a trademark.

- (c) the Respondent has registered and is using the disputed domain name in bad faith.

The Complainant asserts, *inter alia*, that, by registering and using the second level domain "mmpapermills", together with a "MM Paper & Board Mills" logo, as well as a product name "MM Kraft" for paper, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's trademarks.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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.

A. Identical or Confusingly Similar

The Complainant has established rights in the MM and MM KARTON trademarks.

The disputed domain name consists of the Complainant's MM trademark combined with the term "papermills". This Panel agrees with the Complainant's assertion that the addition of the term "papermills" in the disputed domain name does not prevent a finding of confusing similarity between the Complainant's trademarks and the disputed domain name.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.8: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements.” Furthermore, the applicable Top-Level Domain (“TLD”) “.com” is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent does not appear to be commonly known by the name “mmpapermills” or by any similar name. The Respondent has no connection to or affiliation with the Complainant, and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademarks. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. The disputed domain name is used for a website where a “MM Paper & Board Mills” logo (the name of which is almost identical to that of the Complainant’s operative segment, MM Board & Paper) is displayed. On this website, MM Paper & Board Mills claims to be “Pakistan’s leading manufacturer of kraft and liner board paper”. The Complainant has affirmed that this entity does not exist and that the sign is not protected as a trademark, and moreover the Panel notes that use of the Complainant’s trademarks to offer competing services does not constitute a *bona fide* offering of goods or services. The Respondent has not refuted the Complainant’s contentions, nor replied to claim any rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel, based on the evidence presented, accepts and agrees with the Complainant’s contentions that the disputed domain name was registered and is being used in bad faith.

The disputed domain name was registered many years after the Complainant’s trademarks were registered. In addition, owing to the substantial presence established by the Complainant worldwide, it is at the least very unlikely that the Respondent, which on its website claims to be “Pakistan’s leading manufacturer of kraft and liner board paper” (thus operating in the same field as the Complainant) was not aware of the existence of the Complainant’s trademarks when registering the disputed domain name, which is confusingly similar to the Complainant’s trademark.

Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant’s earlier rights to the Complainant’s MM trademarks.

The bad faith registration and use of the disputed domain name is also affirmed by the fact that, in this proceeding, the Respondent has not denied any of the assertions of bad faith made by the Complainant.

Consequently, this Panel finds that the Respondent’s use of the disputed domain name to resolve to a website where goods competing with those of the Complainant’s are sold amounts to bad faith use.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainant has satisfied 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 <mmpapermills.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: January 19, 2023